Implementation Plan

Responses to Comments

IMPLEMENTATION PLAN
RESPONSES TO COMMENTS

1.1 Introduction

IP-1.1-1

The CALFED Bay-Delta Program (CALFED Program) agrees that CALFED Program elements, particularly those involving groundwater or acquisition of land and water, should be implemented in concert with input from local interests, and that these actions should be coordinated and should address long-term goals. CALFED is committed to close coordination with local entities potentially affected by Program implementation but cannot commit to holding in abeyance all actions until all local entities are in agreement. The Program is designed to be implemented in stages, with adaptive management providing the tool for modifying implementation based on what is learned at each stage.

It would be impractical to develop detailed local coordination plans that could anticipate all the possible combinations of actions and their effects. However, a local coordination plan to assure local participation and confidence in the CALFED process and other land acquisition programs will be developed. That local coordination plan will propose that the implementation be governed by a combination of tools that define the broad conceptual framework for the Program and disclose its potential range of impacts and benefits. Additionally, CALFED proposes:

- To document and formalize the agreement reached among CALFED agencies and stakeholders on action priorities and linkages in the Programmatic Record of Decision (ROD).
- That implementation of specific actions be governed by CALFED's solution principles and adaptive management.
- That actions be prioritized with broad public input.
- That individual actions will be accompanied by the appropriate environmental review, in compliance with all applicable laws and regulations, prior to permitting and implementation.

CALFED's policy is to closely coordinate with local planning entities, interest groups, and elected officials during Program implementation, including the project-level planning and environmental documentation process. The CALFED agencies believe that this approach is implementable and provides appropriate opportunities for public disclosure, input, and adjustments to ensure that local concerns are addressed in a coordinated way.

IP-1.1-2

Please also see common response 19. CALFED agrees with the need for firm assurances that the plan will be carried out as envisioned and meets the Program objectives in a balanced, timely, and equitable manner. However, the Program is designed to be implemented in stages, with adaptive management providing the tool for modifying implementation based on scientific data and what is learned at each stage. It would be impractical to develop project-level approaches and an assurances package that could anticipate all the possible combinations of actions and their effects, and guarantee that all these outcomes would meet the stated criteria.

Instead, CALFED proposes that implementation be governed by a combination of tools that defines the broad conceptual framework for the Program and discloses its potential range of impacts and benefits, then develop the requisite level of detail on specific actions on an appropriate priority basis. This step-wise implementation and assurances approach can be summarized as follows:

- First, CALFED proposes to include substantial, detailed agreements on action priorities and linkages before implementation. Prior to implementation, CALFED will also develop explicit assurances with respect to Delta operations.

- Second, CALFED proposes that implementation of specific actions be governed by CALFED's solution principles and adaptive management.

- Third, CALFED proposes that actions be prioritized with broad public input.

- Fourth, individual actions will be accompanied by the appropriate environmental review, in compliance with all applicable laws and regulations, prior to permitting and implementation.

In addition, CALFED will seek to provide assurances of regulatory stability as the Program unfolds. It is anticipated that the implementation phase will enhance coordination of CALFED, Central Valley Project Improvement Act (CVPIA), and Trinity River actions.

The CALFED agencies believe that this approach is implementable and provides appropriate opportunities for public disclosure, input, and adjustments to ensure that stakeholder concerns are addressed in a coordinated way. Specific assurance mechanisms may be needed to assure balance and adequate regulatory certainty as the Program moves forward. These mechanisms potentially include contracts, legislation (including bond measures, and authorizing and appropriations legislation), inter-agency agreements, licensing agreements, agency directives, and stakeholder-driven decision processes. Such assurances would be particularly important for projects that could result in substantial environmental impacts if improperly implemented (such as new surface storage facilities and conveyance facilities).

IP-1.1-3

CALFED agrees that adequate time, effort, and funding need to be committed, to ensure that the through-Delta alternative is given full opportunity to succeed. A staged decision process that will incorporate new scientific information as it is developed, impartial scientific review, and broad-based policy considerations has been proposed by CALFED.

IP-1.1-4

CALFED appreciates the important role played by the Delta Protection Commission (DPC) and welcomes a closer collaboration with the DPC in the planning and implementation process for the CALFED Program. Since December 1999, the DPC has been a member of the CALFED Policy Group.

IP-1.1-5

CALFED acknowledges the need for support at every level for the Program to succeed and the need for periodic public review and comment on the Program as implementation proceeds. The Implementation Plan has been revised to explicitly reflect the commitment to periodic public review of Program implementation. CALFED

Policy Group participants will be involved in all significant operational decisions with policy implications, and involvement at higher levels will be sought as needed to resolve outstanding concerns. Such direct involvement has been very helpful in moving the process forward during the programmatic planning phase of the Program. Detailed proposals for governing Program implementation in the interim and long-term are discussed in the "Governance" section in the Implementation Plan.

IP-1.1-6

While most commentors advocate balanced implementation, the meaning of "balance" means something different to each reviewer. CALFED has sought, and will continue to seek, balance based on stakeholder and agency comments, regulatory imperatives, scientific knowledge, and adaptive management. In this context, CALFED agrees with many commentors that Program implementation needs to be adequately funded, balanced, and meet all four of its Program objectives in order to succeed. Actions need to be prioritized to ensure that the most cost-effective and beneficial actions move forward first. The inter-relationships between Program actions need to be carefully considered in the planning and implementation phases of the Program. CALFED has sought to structure the implementation process to achieve these goals. The proposed implementation process is described in the Implementation Plan, with additional detail in response IP-1.1-2.

The specific water quality improvement actions proposed for Stage 1a consist of a broad range of actions, including conveyance improvements, flow management, source control measures, monitoring, public education, and studies (Table 3-1 in the Implementation Plan, Water Quality List of Actions).

Some commentors' suggestions to defer planning and implementation for storage and conveyance facilities in favor of nonstructural solutions have not been incorporated into the Implementation Plan because the lead time required for feasibility and environmental studies associated with implementation of storage and conveyance facilities generally takes many years, thus providing the de-facto opportunity for phased implementation proposed by the commentors. All implementation actions must undergo detailed technical and environmental review, with extensive opportunities for public input. Therefore, it is considered prudent to proceed with feasibility and environmental studies, consistent with available funding, for the most promising structural options.

IP-1.1-7

CALFED implementation is based on CALFED solution principles, including a key provision that the Program will pose no significant redirected impacts. Specifically, the CALFED Program actions are based on respecting and supporting area-of-origin water rights, Delta protective statutes, local water management plans, groundwater ordinances, and the rights of individual landowners to use water in accordance with their water rights. However, the CALFED Program actions are not intended to abridge the independent regulatory authority of its member agencies, including that of the State Water Resources Control Board (SWRCB) to regulate water rights throughout the Bay-Delta region.

CALFED has not ignored existing laws, regulations, and water use trends in the area-of-origin portions of the solution area. CALFED's alternatives analysis incorporates projected changes in local land use and water use throughout the solution area. The evaluation is based on adherence to all current laws and operating rules to the extent that those laws can be modeled with a monthly water balance accounting model (DWRSIM). For example, the estimates of Delta exports under future conditions (year 2020) includes increased consumptive use in area-of-origin counties, additional in-stream flows for the Trinity River watershed, and increased diversions from the American River basin to meet existing contractual obligations.

CALFED seeks to improve overall system performance by providing tools and incentives for improved water use efficiency, water transfers, watershed management, water storage (both groundwater and surface water storage, as appropriate) and conveyance. The Program also seeks to improve in-stream flows in key reaches for periods most beneficial to sensitive fish species, through voluntary, compensated water acquisitions and in-lieu arrangements as appropriate. The specific Program actions in these areas are described in the Programmatic Environmental Impact Statement/Environmental Impact Report (Programmatic EIS/EIR) and in the individual program plans, including the Water Use Efficiency, Watershed, Ecosystem Restoration, and Water Transfer Program Plans.

In addition, implementation of Ecosystem Restoration Program actions, as well as other actions involving significant land purchases or interests in land such as easements, will be achieved through willing-seller transactions. Where necessary for the construction of specific facilities for water management, such as groundwater recharge, surface storage, canals, monitoring sites, and so on, CALFED agencies may resort to eminent domain in order to achieve Program objectives. CALFED's commitment is to keep such transactions to a minimum, without jeopardizing overall Program implementation.

IP-1.1-8

Program implementation is summarized in the Implementation Plan. Additional detail is provided for specific program components in the individual program plans.

IP-1.1-9

While it is true that CALFED's goals include environmental restoration and improved water supply reliability for in-Delta and Delta-dependent water users, the Program is far broader and more comprehensive than the reviewer suggests. The reviewer is referred to the Programmatic EIS/EIR and supporting appendices for a description of the eight Program elements and their potentially broad contribution to improved water use efficiency, water quality, ecosystem quality, water transfers, watershed management, levee system integrity, storage, and conveyance.

IP-1.1-10

The CALFED mission includes improving water management for beneficial uses of the Bay-Delta system. CALFED seeks to reduce the mismatch between Bay-Delta water supplies and current and projected beneficial uses dependent on the Bay-Delta system. The Program seeks to accomplish this through a broad range of actions documented in the Programmatic EIS/EIR and supporting appendices, including measures to improve water use efficiency, water quality, water transfers, groundwater and surface water storage, and conveyance. The Program identifies numerous Stage 1 actions to advance these actions, including regional action priorities for the south Delta region as identified in the Implementation Plan. Advance planning for the most critical actions is already underway. In addition, CALFED will seek to provide assurances of regulatory stability as the Program unfolds. It is anticipated that the implementation phase will enhance coordination of CALFED, CVPIA, and Trinity River actions.

However, the Program scope does not include assuring water supply reliability for all service areas dependent on the Bay-Delta system for part or all of their water supplies. CALFED actions must be supplemented with appropriate local planning and implementation of water supply management actions to ensure that local goals are met.

IP-1.1-11

During Program implementation, CALFED will refine its procedures for disbursing grants, loans, selection of proposals, and contracts for directed actions. CALFED seeks to develop fair, open, and effective procedures that will result in actions consistent with CALFED goals and that focus implementation on the highest priority and most cost-effective actions. CALFED will build on the experience of the Ecosystem Restoration Program project selection process and other processes to develop the implementation funding procedures. Until these procedures have become established and been given an opportunity to work, it will not be possible for CALFED to commit to funding any specific actions recommended by stakeholders.

IP-1.1-12

Coordination of a large and complex program involving federal, state, and local agencies will be an ongoing challenge. A permanent governance structure is proposed and will be implemented to address planning, coordination, and implementation functions, as described in the CALFED Governance Plan (Section 4 in the Implementation Plan). In the interim, coordination is provided at multiple levels. Decision-making authority will continue to rest with each of CALFED's participating agencies, with key roles played by the Secretary of the Department of Interior (federal) and the Resources Secretary (state). Many coordination concerns are discussed and addressed by the CALFED Policy Group, which includes representatives from the various CALFED participating agencies. The Bay-Delta Advisory Council (BDAC) or a new public advisory group, consisting of a broad cross section of CALFED's stakeholder community, will continue to discuss and provide advice to the Policy Group on various aspects of the Program, including coordination issues. Numerous technical groups and direct coordination between technical staffs in the CALFED participating agencies also provide a great deal of technical coordination. For detailed information regarding the Financing Plan, please see response IPF 5.0-1.

CALFED's proposed Multi-Species Conservation Strategy (MSCS), is designed to provide appropriate coordination between Program actions, CVPIA actions, and regulatory program requirements.

The Implementation Plan suggests Program actions that potentially may be accomplished during Stage 1. The Implementation Plan also delineates a variety of actions that may proceed in the very near term, or what is referred to in the plan as Stage 1a. The Implementation Plan is based on a prioritization of actions in each common program and in the Storage/Conveyance elements. The CALFED agencies have made no commitments to implement the actions identified for Stage 1a and will make no such commitments until action-specific environmental review is complete. Please also see common response 16, discussing conveyance and a potential isolated facility.

The Bay-Delta Accord (Accord) of December 15, 1994, delineated certain ecosystem restoration activities for implementation and financing prior to completion of the Programmatic EIS/EIR process. These activities are the non-flow-related projects called for in the Water Quality Control Plan for the Bay-Delta (1995), which are labeled as "Category III activities" in the Accord. Funding for Category III activities has been provided by the California Urban Water Agencies, California Proposition 204, the Federal Bay-Delta Act, and U.S. Environmental Protection Agency watershed funds. The California Resources Agency and the Department of Interior have cooperated in the selection process for ecosystem restoration projects through CALFED's Ecosystem Restoration Program. All Category III projects have met specific criteria that merit their implementation prior to completion of the Programmatic EIS/EIR. All projects have been justified independently of the Program by lead agency(ies) for the project(s). All projects have been accompanied by the appropriate level of environmental review *as required by law.* Finally, no projects have been selected that would prejudice the ultimate direction of the Program.

Each Category III project has been accompanied by the appropriate environmental review. Please see response IP 4.3-1, which explains the different types of Category III projects and the different levels of environmental review that have taken place. Actions funded to date include land acquisition, either in fee or using a conservation easement. Only a small portion of the lands acquired have been converted away from agricultural use. In most instances, agricultural practices have continued on the acquired lands. Chapter 9 in the Programmatic EIS/EIR discusses how mitigation strategies, including those for impacts on agricultural land, will be incorporated into individual Program actions during Phase III.

The Programmatic EIS/EIR is not required to enumerate (1) all discretionary approvals made by CALFED or the CALFED agencies following the Notice of Preparation for the Programmatic EIS/EIR, with the potential to affect agricultural resources; or (2) the California Environmental Quality Act (CEQA) compliance undertaken for each action. The Programmatic EIS/EIR evaluates the impacts of the CALFED Program at a general-plan level to provide the CALFED lead agencies with the information needed to compare the alternatives evaluated in the document and to help them in their decision of whether to adopt the Preferred Program Alternative. The comment refers to a provision of CEQA that is intended to provide a list of agencies expected to use an EIR in their decision making and a list of permits and other approvals required to implement the project, to the extent that information is known (CEQA Guidelines Section 15124). For a programmatic document (such as this Programmatic EIS/EIR) that is prepared to evaluate the long-term impacts at a general-plan level of detail, much of that information is not yet known. Chapter 8 in the Programmatic EIS/EIR lists the general regulatory approvals and permits that are anticipated to apply during implementation; these may or may not apply to individual projects as the Program moves forward.

If site-specific projects that tier off the Programmatic EIS/EIR involve significant new impacts that have not been evaluated in the EIS/EIR, additional environmental documentation will be required. The cumulative impacts of early implementation ecosystem restoration projects, along with the overall Ecosystem Restoration Program, are evaluated in the Programmatic EIS/EIR. Chapter 7 in the Programmatic EIS/EIR discusses the cumulative impacts of implementing the CALFED Program on agricultural resources, including anticipated land use changes. During project-level planning for specific actions, the relationships between geographically and operationally related actions will be analyzed.

CALFED agrees with the need for coordination between land use planning and water resources planning. CALFED conceptually supports increased coordination between land use and water resource planning. However, land use planning historically has been a local government agency responsibility, and the CALFED Program is not intended to change existing land use authority.

CALFED staff and agencies are committed to building and maintaining good coordination at all levels of the Program.

IP-1.1-13

The words of encouragement are appreciated.

IP-1.1-14

Please see common response 1. Although the Programmatic EIS/EIR may not address impacts at the level of detail that many commentors desired, the document defines the broad Program scope and resultant impacts with sufficient detail for necessary programmatic evaluations and decision making. Additional detail on specific

proposed Stage 1 actions is included in the Implementation Plan. The Phase II Report summarizes the planning and analysis conducted during Phase II of the CALFED Program.

CALFED acknowledges some disparity between the level of detail of the various Program elements. The Program plans are programmatic in nature and are the result of collaborative efforts by CALFED staff, CALFED agencies, cooperating agencies, and stakeholders. Thus, while the goal is to adequately define the Program in sufficient detail for the purposes of a programmatic evaluation, by its nature a program that includes a large geographic scope, broad objectives, and a very diverse range of participants will not result in a uniform level of definition across all subject areas. However, the disparity may appear greater than it will actually be in practice.

For example, although Ecosystem Restoration Program goals are fairly specific with respect to target habitat acreages, the Program is quite general with respect to the location of such acreages. Given CALFED's commitment to minimize acquisition of land and to eschew condemnation of land for Ecosystem Restoration Program purposes, the specific timing and location of action that will comprise implementation of the Program are to a large extent undefined. Program definition will occur during implementation as opportunities to implement the Program vision, compatible with local landowner and local land use planning goals, are acted upon. The Watershed Program is expected to be largely locally directed, compatible with the overall objectives of the CALFED Program. Hence, the focus is on developing an appropriate collaborative project evaluation and prioritization process, rather than on identifying specific actions. In both cases, therefore, implementation will be largely driven by the opportunities to work with local landowners and agencies to incrementally implement actions that advance the overall Program objectives. Concerns about the lack of detail associated with the Stage 1a implementation actions summarized in Table 3-1 in the Implementation Plan have been addressed by additional Program refinements in the Phase II Report, the Implementation Plan, and associated program plans—which are sufficient for a programmatic analysis.

Various commentors have demanded that CALFED provide much greater specificity in various Program elements, such as water use efficiency measures, the Integrated Storage Investigation, implementation strategy, and so on. The challenge for CALFED is to produce a plan that defines the broad Program scope and its impacts with sufficient detail for intelligent decision making and legal sufficiency, without overwhelming the stakeholder community with detail. There is also a compelling need to complete the programmatic planning phase within reasonable budgetary and time constraints such that those actions for which substantial agreement exists can begin implementation. CALFED is criticized for both the lack of project-specific detail and for the overwhelming amount of information provided in the June 1999 Draft Programmatic EIS/EIR. It is impossible to resolve the conflicting imperatives for more detail and less bulk in the same set of documents.

IP-1.1-15

CALFED disagrees with this assertion. The foundations of any planning process are information about current conditions, current trends, and reasonable assumptions about the future. The future, of course, is an unknown; hence, CALFED has sought to establish a reasonable range with planning "bookends" as described in Attachment A in the Programmatic EIS/EIR.

CALFED's planning process is based on existing laws and regulations. The CALFED Program is not based on assumptions about future legislative activity, other than an expectation that federal and state government funding will become available. In some areas, with input from its agencies and the stakeholder community, CALFED has developed proposals for future legislation (for example, establishment of the water transfer clearinghouse and creation of the CALFED governance entity).

IP-1.1-16

The Implementation Plan summarizes some of the high-priority actions proposed for implementation in Stage 1 (the first 7 years) and Stage 1a (the first 2 years) of Program implementation. The plan includes specific proposals for augmenting environmental flows—taking into consideration monitoring and research information, water, and funding availability, and Program priorities (please see Section 2.3, "Ecosystem Restoration," and Section 2.11, "Science Program"). Please also see Table 3.1. While these actions do not guarantee that all environmental flow requirements will be met at all times, they do indicate that the Program seeks to advance this goal in the context of a balanced Program implementation.

IP-1.1-17

CALFED's efforts to engage stakeholders throughout the CALFED solution area have been more extensive than any attempted in previous water resources planning efforts. The CALFED Program will continue to work with stakeholders and the public in an open and collaborative process in order to develop a solution plan and actions to restore environmental health and improve water management in the Bay-Delta system. The CALFED Program has offered, and will continue to offer, many opportunities for stakeholder involvement—such as BDAC meetings and work groups, public Policy Group meetings, and public hearing and workshops. Policy Group meetings and decision making have been public since August 1999, and BDAC meetings take place several times a year. Many BDAC meetings have been held outside Sacramento to increase public access. Specific suggestions for improving and invigorating that participation process are appreciated and will be incorporated as appropriate.

IP-1.1-18

CALFED has sought to develop, with very broad stakeholder input, a comprehensive, programmatic approach to problems facing the Bay-Delta system. Correcting those problems requires actions of various kinds, as laid out in the Preferred Program Alternative and detailed in the program plans defining its elements. Every effort has been made to develop a plan without broad redirected impacts. However, projects implemented will result in some change in the environment—be it change in land use, construction or removal of facilities, or reoperation of existing facilities. Every project has some effect that someone, somewhere could construe as an impact. For example, construction of a wastewater treatment plant, which might greatly reduce pollution in a body of water, would require that the treatment plant be constructed somewhere, thus affecting existing land use on the affected parcel—be it a natural area, an orchard, or an industrial site. To require no impact of Program actions, anywhere, on any scale, would effectively paralyze Program implementation.

CALFED assumes that all diverters from the Bay-Delta do so in order to accrue benefits from those diversions. The proposed broad-based user fee for water uses is intended to reflect the incremental impact of diversions from the Bay-Delta system, in order to facilitate a practical means to restore and maintain the system. Such a broad-based fee needs to be responsive to the relative impacts of the various diversions and their relative water rights priorities, recognizing that every water user contributes some incremental impact to the Bay-Delta system. Developing a fair and reasonable broad-based user fee to assure the continued restoration of the Bay-Delta system will be a complex and difficult undertaking, responsive to the available biologic, hydrologic, and institutional factors associated with each diversion. (Please also see response IPF 5.0-5.)

IP-1.1-19

CALFED does indeed support the current negotiations that are underway, as well as this approach to resolution of complex issues in general.

IP-1.1-20

CALFED disagrees with the commentors' assessments. The Programmatic EIS/EIR presents alternative impact assessments of the proposed programmatic documents at a programmatic level. Given the geographic scope of the Program, the multiple objectives of the Program, the hundreds of potential solution actions, and CALFED's commitment to respect and support local water management goals, it would be logistically impossible to provide project-level assessments of all possible combinations of implementation actions and their impacts. There are literally millions of possible combinations of actions, each with a unique combination of benefits and impacts that could be analyzed. To attempt such a task would be an immense undertaking, with little hope of reaching closure or of being reviewed and understood by the stakeholder community. CALFED's strategy has been to group planning assumptions so that the aggregate effect of each planning assumption group creates a reasonable "bookend" for impact analyses. Delta operating criteria, ranges of surface water and groundwater storage implementation, ranges of implementation of water use efficiency and water transfers, and ranges of ecosystem restoration actions are among the key variables that were grouped for impact analysis of the alternatives. Project-level environmental assessments and feasibility studies will be tiered off the Programmatic EIS/EIR.

IP-1.1-22

Please also see common response 3. The CALFED Program seeks to restore the Delta ecosystem as one of its four co-equal Program purposes. CALFED is proposing the Ecosystem Restoration Program as a means of restoring and protecting public trust resources. This includes the proposal to acquire additional water from willing sellers in order to augment streamflows that will benefit fish and other aquatic resources, as well as acquisition of interests in land from willing sellers and cooperative agreements to support ecosystem restoration efforts. CALFED recognizes that the decline of ecological resources is the result of multiple causes throughout the ecosystem, including land use changes, introduction of exotic species, introduction of toxic materials, water diversions, dams, canals, highways, and intensified human use of virtually all aspects of the environment. The Ecosystem Restoration Program proposes to deal with many of these causes through cooperative, not regulatory means. Within that framework, CALFED seeks to augment streamflows in key stream reaches on a voluntary and compensated basis, with appropriate protections for third parties that may be affected by reallocation of water by these means. Similarly, proposed land use changes will take place on a voluntary, compensated basis in order to respect private property rights and local economic concerns. Protecting public trust resources in this manner is entirely consistent with the California Supreme Court's direction to protect public trust resources where feasible.

IP-1.1-24

CALFED agrees that education is an important aspect of water conservation, which to a large extent depends on changing public water use patterns for success. Education is an important element of the Water Use Efficiency Program. This function is most effectively performed at the local level, where local conditions and specific opportunities for improving water use efficiency are best understood. CALFED's programmatic approach is to encourage local education and outreach efforts with technical support, incentives, grants, and loans. Such technical support, incentives, grants, and loans, rather than reliance on a regulatory hammer, are the primary implementation tools proposed by CALFED for the Water Use Efficiency Program. This approach does not in any way limit enforcement of existing laws and regulations, but it is hoped that it will reduce the need for use of the regulatory hammer in the future.

The issue of who should pay for what is discussed at length in the Financing Plan (Section 5 in the Implementation Plan). The commentor is directed to that document in response to the suggestion that taxpayers not be forced to pay for the most expensive projects. Please also see response IP-1.4-1.

IP- 1.1-25

CALFED agencies and staff share the commentor's desire to expeditiously develop specific, balanced, implementable solutions to the problems facing the Bay-Delta and those who depend on it. What has become clear in the past 4 years is that those words mean very different things to various stakeholders. No amount of staff effort can paper over the strikingly divergent vision of various stakeholders as to how the Bay-Delta system should be managed now and in the future. The CALFED process has brought into focus the areas for which there is broad consensus and those for which there is no consensus. CALFED has sought to build on the areas of agreement with a staged implementation approach that will tackle the many outstanding, contentious issues in a constructive manner. The reviewer is also referred to responses IP-1.1-6 and IP-1.1-10 for further discussion of balance and meeting local water supply needs.

IP-1.1-26

CALFED and its participating agencies rely extensively on highly sophisticated mathematical models to simulate various important features of California's hydrologic processes and its water resources development system. Those models reach the heart of the water budget concern. CALFED used a variety of models to support its programmatic analysis including, but not limited to:

- DWRSIM - for system operations evaluation,
- DWRDSM2 - for Delta simulation modeling,
- DWOPR - for flood simulation modeling,
- Various spreadsheet models, and
- Economic evaluation models.

These tools are constantly updated and refined to accurately portray system conditions and include new data. Please also see response IP-2.0-3.

IP-1.1-27

After carefully weighing substantial technical analyses; assurances concerns; and the often deeply held, divergent viewpoints of CALFED stakeholders, CALFED has selected a through-Delta conveyance strategy as part of the Preferred Program Alternative. The isolated conveyance component of the dual-Delta conveyance alternative (Alternative 3) was judged to be the technically superior alternative in terms of export water quality, export water supply reliability, and reduced fisheries impacts. However, assurances concerns, particularly with respect to in-Delta water quality and ensuring Delta levee integrity, were not resolved.

Assurances concerns rendered Alternative 3 unimplementable as a Preferred Program Alternative for the CALFED Program at this time. Additional information will be obtained during Stage 1 to determine whether water quality objectives and fish recovery goals can be met and which, if any, additional actions will be necessary to achieve the Program goals and objectives. If it is determined to be necessary, further technical studies of a dual-Delta conveyance alternative will be undertaken. The specific decision process and schedule for evaluation and selection of new approaches will be part of any necessary supplemental programmatic and project-specific environmental documents.

CALFED's Delta conveyance strategy is articulated in the Phase II Report, with additional specific details on early implementation actions in Table 3.1 in the Implementation Plan. In the judgment of the CALFED agencies, this is the greatest level of detail that can be justified at this time, given the lack of current scientific knowledge about

certain aspects of fisheries impacts, the absence of consensus in the stakeholder community on Delta conveyance alternatives, and CALFED's commitment to apply adaptive management to the solution process.

IP-1.1-28

CALFED has proposed a broad implementation strategy that relies to a large extent on adaptive management, which in essence means that research and monitoring will be an integral part of each implementation action in order to determine effectiveness and opportunities for improvement. The Vernalis Adaptive Management Plan (VAMP), described in the "Meeting Flow Objectives for the San Joaquin River Agreement, 1999-2010" (DWR, 1999), is one recent, detailed example of the application of adaptive management applied concurrently with a set of fisheries improvement actions.

To be applied successfully, each action must be accompanied by a carefully structured monitoring and evaluation program tailored to resolving the critical scientific questions. This project-level detail can be developed only on a case-by-case basis. It is also not possible at this time to determine who would be in charge, as implementation will be conducted by numerous local, state, and federal entities. CALFED proposes that there be a commitment to oversight of this process and has advanced a proposal for long-term governance structure (please see Section 4 in the Implementation Plan).

IP-1.1-29

Because of the Program size and complexity, implementation of the Preferred Program Alternative is anticipated, to take place over a period of 30 years or more. Initial actions will be implemented during the first 7 years of the Program. Adaptive management and project-level environmental analysis will allow for Program flexibility.

IP-1.1-30

The Ecosystem Restoration Program recognizes the value of a mosaic of habitat types. The Ecosystem Restoration Program and the MSCS will implement the restoration of a wide variety of habitat types, but the focus in the Suisun Marsh will be tidal wetlands.

IP-1.1-31

The specific actions and programs proposed in the Strategic Plan should be viewed as the detailed discussion of the Stage 1 actions for the Ecosystem Restoration Program.

IP-1.1-32

The descriptions of actions associated with the bundles do not completely describe Stage 1 actions for the Ecosystem Restoration Program. They do describe proposals for the first 2 years for some, but not all, of the Ecosystem Restoration Program Stage 1 actions. Please refer to the Strategic Plan for a more complete set of proposals.

IP-1.1-33

The Ecosystem Restoration Program proposes to assist in implementation of the Suisun Marsh diversion screening program. Diversions that are selected as the highest priority will be screened first.

IP-1.1-34

CALFED has placed considerable emphasis and resources on the restoration of the Cosumnes River. However, the river has not historically supported large numbers of chinook salmon and is not likely to in the future.

IP-1.1-35

The Ecosystem Restoration Program has funded substantial acquisition, restoration, and study along the Cosumnes and Mokelumne Rivers as a major component of its early implementation effort. More will be done in Stage 1, as part of the North Delta Program.

IP-1.1-36

Stage 1 is not the only or entire time frame for implementation of the visions for ecological zones contained in the Ecosystem Restoration Program. Implementation will take place over a period of 30 years or more.

IP-1.1-37

Thank you for your support.

IP-1.1-38

Substantial areas of scientific uncertainty are associated with habitat and entrainment issues in the south Delta. For this reason, CALFED proposes to implement some actions in the early implementation of Stage 1. Our purpose is to reduce scientific uncertainty.

IP-1.1-39

If the opportunities are presented by willing sellers, CALFED will pursue them.

IP-1.1-40

CALFED concurs.

IP-1.1-41

The Ecosystem Restoration Program has initiated investigation into these issues and will continue to do so.

IP-1.1-42

CALFED concurs. It is our intent to use the science and research component of the Ecosystem Restoration Program to address this and the many other issues associated with restoration of natural streamflow processes.

IP-1.1-43

CALFED agrees with the commentor that Program components must be consistent. Actions will be prioritized to ensure that the most cost-effective and beneficial actions move forward first. The inter-relationships between Program actions need to be carefully considered in the planning and implementation phases of the Program.

CALFED has sought to structure the implementation process to achieve these goals. For the south Delta, CALFED has sought to develop a broad, well-integrated solution approach to the lower San Joaquin River and south Delta region's water management and fisheries concerns, which includes substantial flexibility and a broad set of actions to attack problems from many fronts. (Please also see responses IP-1.1-6 and IP-2.8-1.)

IP-1.1-44

CALFED agrees with the commentors and is developing such a review process, including peer review for the Ecosystem Restoration Program and other Program elements. Such a process will itself be subject to review and refinement throughout the implementation process. It must be recognized, however, that Program priorities will not be driven purely by scientific imperatives. The need to implement policy decisions; the need to assure appropriate regional and resource priorities; and the constraints of laws, regulations, and permit requirements may need to be considered in conjunction with the recommendations of science review panels. The challenge will be to clearly articulate and debate this blend of science, policy, and regulatory constraints.

IP-1.1-45

The support for this approach is appreciated.

IP-1.1-46

CALFED, through the Ecosystem Restoration Program and the MSCS, does not share the commentors' pessimism regarding the ability to recover jeopardized species. However, CALFED does acknowledge the uncertainty of which measures will be most effective in meeting Ecosystem Restoration Program and MSCS goals. Therefore, adaptive management, supported by sound science, monitoring, and adequate funding, will be implemented to evaluate the effectiveness of the measures.

IP-1.1-47

It is very difficult to calculate the value of natural resources. CALFED can and will determine the costs for mitigation of potential impacts on such resources. CALFED has estimated such costs at a significantly higher percentage (20% of project costs) than typically used for similar private resource mitigation projects (4-5% of project costs). Therefore, CALFED has included full mitigation costs using conservative estimates for water development proposals described in the Program documents, including the Programmatic EIS/EIR.

IP-1.1-48

Please also see common response 5. The comment underscores the challenge of formulating a coherent, specific suite of alternatives when the scope of the Program, both in terms of geography and subject matter, would allow for literally millions of combinations of actions. Each of the Program elements, such as the Water Use Efficiency Program, identifies a large number of potential solution options that can be implemented to various degrees throughout the CALFED problem and solution area. The Programmatic EIS/EIR discloses these actions and discusses their potential impacts and benefits, thus meeting its obligation under the National Environmental Policy Act (NEPA) and CEQA. What the document does not do is artificially link specific combinations of the various program actions with specific storage and Delta conveyance combinations. CALFED chose not to create such specific action combinations for the simple reason that it is entirely unrealistic to narrowly define alternative futures for such a complex system. In other words, CALFED's assertion that the common program elements "do

not vary" should be construed to mean "do not vary in concert with or as a specific function of the Delta conveyance alternative."

CALFED did evaluate on a programmatic scale, however, the broad range of effects of selecting future water management strategies, ranging from emphasis on demand management and more restrictive Delta environmental protections (Criterion A) to a greater emphasis on new system storage and no new environmental protections (Criterion B). The environmental impact evaluation of alternatives was conducted with both Criterion A and Criterion B, thus capturing a reasonable range of uncertainty and flexibility with respect to implementation of key Program components. The resultant matrix of evaluations (please see Attachment A in the Programmatic EIS/EIR) appropriately captures the range of alternatives on a programmatic scale. (Please also see response IP-1.1-20.)

IP-1.1-49

Such a detailed evaluation of the isolated conveyance component would occupy as much text as the entire Programmatic EIS/EIR and would go well beyond the appropriate level of detail for a programmatic document. During the course of alternative formulation, CALFED staff has conducted fairly extensive modeling of various dual-conveyance strategies and has made the results of those studies available to the public both in hard copy and through CALFED web sites. The results of those analyses were summarized in the March 1998 Phase II Interim Report. The dual-conveyance evaluations recognized that diversions from the south Delta, combined with cross-Delta flow from the Sacramento River, significantly improved central and south Delta water quality as compared to a no-diversion scenario. This modeling suggested that a minimum diversion rate of approximately 3,000 cubic feet per second (cfs) was sufficient to protect in-Delta water quality. Please also see common response 16 and response IP-1.1-27.

IP-1.1-50

The export/import (E/I) ratio was formulated as a tool to limit the adverse hydrodynamic and entrainment effects of State Water Project (SWP) and Central Valley Project (CVP) diversions in the south Delta. One of the primary benefits attributed to the proposed dual-Delta conveyance alternative is that it would divert water upstream of the Delta, thus significantly reducing adverse hydrodynamic conditions and direct entrainment effects. The proposed relaxation of the E/I ratio would reflect this physical attribute of the dual-Delta conveyance system.

As noted in response IP-1.1-48, the Programmatic EIS/EIR does analyze the effect of a range of water management criteria, as embodied in the bookend clusters of assumptions (Criteria A and B). It would be impractical to analyze each protective standard individually, as recommended by the commentor.

While assurances are an important element of the CALFED planning process, it is now clear that a single comprehensive assurances package will not be included as part of the Programmatic EIS/EIR. Please see response IP-1.1-2 for further discussion of that issue.

IP-1.1-51

The proposed actions are included as part of the comprehensive U.S. Army Corps of Engineers (Corps)/California Department of Water Resources (DWR) flood evaluation and CALFED's Integrated Storage Investigation. In addition, agencies with dam operating responsibilities periodically review their dam reservation criteria. The proposed integration of these efforts is a reasonable recommendation. The proposed analysis is not necessarily an alternative to evaluation of new storage opportunities but should be and will be conducted concurrently. The real

question is to what level of detail and integration these reevaluations of existing storage facility operations will be conducted.

IP-1.1-52

Without exception, the proposed concepts and actions have been provided to CALFED through the alternative formulation and evaluation concept. Many of these concepts and actions have been incorporated into CALFED's program plans and the Programmatic EIS/EIR; others have been modified or left out in an effort to develop a practical Preferred Program Alternative consistent with CALFED's solution principles.

One theme that appears throughout this comment is the need for explicit, detailed assurances for environmental restoration, beyond that which is provided by the existing regulatory framework. CALFED's response to assurances concerns for various stakeholders is provided in response IP-1.1-2, and the commentor is referred to that response. Another theme that appears throughout this comment is the need to fully take advantage of primarily "soft path" water management tools to meet urban and agricultural water requirements, with a need to cap Bay-Delta system diversions at a level below current levels.

CALFED has considered such an approach as part of its extensive, interactive, integrated water management analyses. While the details of CALFED's Water Management Strategy will continue to evolve over the coming years, the CALFED agencies believe that all available tools, including additional surface storage, must be considered for implementation. CALFED also believes that a cap on exports, below current levels, would make it extremely difficult to achieve a balanced solution and is therefore an action of last resort.

In addition to this overview response, CALFED has responded to some specific elements of this comment, as follows: responses IP-1.1-2, IP-1.1-11, IP-1.1-26, IP-1.1-32, IP-1.4-1, IP-2.0-1, IP-2.0-3, and IP-2.8-2.

IP-1.1-53

The purpose of the Programmatic EIS/EIR is to evaluate the environmental consequences of the CALFED Program at a programmatic level in order to support the CALFED lead agencies in their decision of whether to adopt the Preferred Program Alternative or one of the other alternatives evaluated in the document. Adoption of the CALFED Program does not include the discretionary decisions to proceed with those early implementation projects for ecosystem restoration that have been funded through the CALFED Program during the last several years. Each of these projects has been justified independent of the Program and subject to its own environmental review, where legally required. Please see response IP 4.3-1 that describes funding for early implementation of ecosystem restoration projects and the environmental review requirements imposed on each project. The cumulative impacts of the early implementation ecosystem restoration projects, along with the overall Ecosystem Restoration Program, are evaluated in the Programmatic EIS/EIR. Neither NEPA nor CEQA require the Programmatic EIS/EIR to enumerate every early implementation project. This information, however, is publicly available from the CALFED Program.

IP-1.1-54

The regulatory framework within which the CALFED Program will act, as well as the manner in which the Program will comply with applicable environmental laws, are discussed in Chapter 8 in the Programmatic EIS/EIR. The affected environment, or existing environmental conditions, is described in each chapter that addresses a natural resource or impact category. For example, the affected environment/existing conditions pertaining to wildlife are set forth in Section 6.2, which addresses impacts on vegetation and wildlife. It is unclear

how the recommended "regulatory baseline" would differ from or add to the regulatory framework description or the affected environment/existing conditions descriptions provided in the Programmatic EIS/EIR.

The comment does not specify which species are intended when the comment refers to species "eligible" for listing. Under both state and federal Endangered Species Acts (ESAs), an individual species may be listed through a regulatory process that culminates in a formal determination of whether the species is threatened or endangered. If a species is determined to be threatened or endangered, it is added to the list of threatened species or endangered species, as appropriate. The U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), and California Department of Fish and Game (DFG) may propose a species for listing. In addition, any member of the public may propose a species for listing under state and federal ESAs. Please refer to Title 50, CFR Section 424.01 et seq. for an explanation of the process to list a species under the federal ESA, and to Title 14 CCR Sections 670.1-670.5 for the process under the California ESA. The CALFED Program will not limit or supplant these processes. The commentor may propose for listing any species that the commentor regards as eligible for listing without regard to the CALFED Program.

However, listing additional species would provide little, if any, benefit in achieving the objectives of the CALFED Program. The MSCS and the Ecosystem Restoration Program propose to protect both species that are listed under state or federal law and species that are not listed. The federal ESA provides for citizen enforcement lawsuits concerning species listed thereunder. This is not in itself, however, a sufficient reason to list additional species. CALFED is committed to implementing the CALFED Program. Additional citizen enforcement suits under the federal ESA are not necessary for, and may conflict with, this purpose.

IP-1.1-55

CALFED was established, in part, to reduce the contentious legal battles centering on the management and use of the Delta's water resources. Creating additional opportunities for litigation concerning the implementation of CALFED would likely increase and intensify these legal battles. Enabling legal action where CALFED is unable to meet specific objectives—such as Ecosystem Restoration Program/conservation objectives, water quality objectives, and water supply reliability objectives—is not consistent with the purpose of the CALFED Program.

At present, the precise nature, location, and timing of Stage 1 actions are unknown. The Programmatic EIS/EIR is a programmatic document and does not analyze specific Stage 1 actions. Please see common response 1. Stage 1 actions must comply with CEQA and NEPA independently, although such compliance may be tiered from the Programmatic EIS/EIR. When Stage 1 actions are identified and defined, they will be subjected to appropriate further environmental review. Likewise, the extent to which specific Stage 1 actions may affect listed species and may require authorization under the federal ESA or the California Natural Community Conservation Planning Act (NCCPA) is not known at present. Incidental take permits will be required for any CALFED action that may take a listed species and is not subject to the discretionary authority of a federal agency. All CALFED actions that may take a listed species and are subject to the discretionary authority of a federal agency must obtain an action-specific biological opinion in accordance with the MSCS.

The commentor's objection to the programmatic biological opinions appears to be based on the assumption that the programmatic biological opinions will authorize take of listed species. This is not so. The programmatic biological opinions will not authorize take of listed species. Take will be authorized, where appropriate, through the streamlined compliance process described in the MSCS. The MSCS compliance process requires appropriate additional environmental review for Stage 1 actions that will affect listed species or other species evaluated in the MSCS. Assurances will be provided for specific Stage 1 actions only after subsequent appropriate environmental review has been conducted to comply with CEQA, NEPA, the ESA, and the NCCPA.

The federal habitat conservation plan (HCP) process will be used for CALFED Program actions that are not subject to the discretionary authority of a federal agency. Assurances will be provided for such actions in accordance with the federal "no surprises" rule. (Please see Federal Register: February 23, 1998 [Volume 63, Number 35] pp. 8859-8873; [**http://endangered.fws.gov/r/f980223.html**].) Most Ecosystem Restoration Program actions will be subject to the discretionary authority of a federal agency. For most Ecosystem Restoration Program actions, a federal agency will either carry out the action, provide funding, or issue a permit necessary to carry out the action. Some Ecosystem Restoration Program actions may be carried out by private entities without federal funding and may not require a permit from a federal agency. If such an action may take a listed species, the federal HCP process will be used to authorize the take.

If new surface storage was constructed, a permit under the federal Clean Water Act (CWA) would be required, federal funding would likely be used, and a federal agency such as the U.S. Bureau of Reclamation (Reclamation) or the Corps would possibly construct some or all of the project. Consequently, the HCP process would not be used.

IP-1.1-56

CALFED agrees; however, Table 3.1 has been revised to delete the column in question (Implementing Agency). No additional action is necessary.

IP-1.1-57

The CALFED agencies are developing a plan to address four inter-related resource management issues. Implementation of the plan may require new law or changes in existing law. Implementation of the plan probably will require appropriations from the state and federal governments.

Regarding substantive and administrative changes, CALFED agencies are reviewing current law to determine the amount of agency discretion in current law and whether new law or changes in the existing law are needed for implementation of the proposed Program. If changes are needed, the CALFED agencies will propose that executive branch officials endorse the changes and propose them to the State Legislature and to Congress.

Regarding appropriations, the CALFED agencies are developing a proposal to finance the expected costs of the Program. The CALFED agencies expect that state and federal appropriations will be needed. In consultation with state and federal agencies with fiscal oversight responsibilities, CALFED agencies will propose that executive branch officials endorse the proposed appropriations and propose them to the State Legislature and to Congress.

The proposed appropriations may require separate statutory authorization. If so, the CALFED agencies will include such authorizations in the changes proposed to executive branch officials. The CALFED agencies, as units of the executive branch of government, are not empowered to enact or modify statute law or to appropriate funds. Therefore, a commitment from the CALFED agencies for enactment of federal and state legislation would be inappropriate.

IP-1.1-58

The ROD for the CALFED Program will describe the programmatic elements of the Program. The Program as developed is not a regulatory program. Therefore, the ROD for the Program will not impose conditions, regulatory requirements, or resource management prescriptions.

Agencies participating in development of the CALFED Program will continue to follow statutes governing both the scope of their regulatory authorities and the process for adoption of conditions, regulatory requirements, and resource management prescriptions.

IP-1.1-59

The CALFED Program as developed is a proactive program to address resource management issues. As such, the Program is subject to regulatory requirements. The CALFED Program is not a regulatory program that imposes requirements. Therefore, implementation of the Program by state and federal agencies is not properly viewed as adherence to a set of requirements.

Chapter 8 in the Programmatic EIS/EIR, "Applicable Laws, Policies, and Plans and Regulatory Framework," describes how the CALFED Program complies with all regulatory requirements that have been identified to date.

IP-1.1-60

Reduction in TDS is one of the primary objectives of the water quality program. Please see Section 7, "Salinity" (hence TDS) in the Water Quality Program Plan. Please also see responses IA-5.3-1 and WQ-3.5.5-2.

1.2 Strategies for Addressing Cross-Cutting Implementation Issues: Addressing Technical, Regulatory, and Policy Concerns

IP-1.2-1

CALFED has summarized the key existing regulatory programs and proposed approaches to coordinated compliance with them in the Phase II Report. In addition, coordinated compliance with federal and state ESA requirements is discussed in the MSCS. CALFED is also developing programmatic compliance guidance for Section 404 of the CWA, as well as for Section 401 compliance. While these actions will not eliminate conflicts nor provide absolute assurances of regulatory certainty, they do provide tools for resolving regulatory concerns more efficiently and constructively than if they were dealt with individually.

IP-1.2-2

The draft language in question is subject to negotiation and change in a process (the Section 404 memorandum of understanding [MOU] process) designed to clarify and advance programmatic regulatory compliance for various actions that might be undertaken as part of the Program. It is anticipated that surface storage and conveyance components will be the most difficult to permit, because these projects are located in or near wetlands, streams, rivers, or other "waters of the United States" and may result in significant impacts. There is a regulatory presumption that alternatives for achieving project purposes exist that do not affect wetlands and waters of the United States. Overcoming this presumption requires a demonstration, to the satisfaction of the regulatory agencies, that all less environmentally damaging practicable alternatives have been fully implemented. The suggested language changes will be considered as the MOU language is negotiated. The MOU development process will be completed with stakeholder review and participation, although the regulatory agencies will not cede any statutory authority to this process.

IP-1.2-3

CALFED will comply with Proposition 204 requirements for balanced implementation as specified in Section 78684.12 of the California Water Code, which sets conditions on the disbursement of $390 million for ecosystem restoration actions. CALFED is also conducting, in cooperation with other state and federal agencies, an Integrated Storage Investigation to address surface and groundwater storage planning concerns. As noted in response IP-1.2-2, CALFED is also working to establish the permitting framework for future Program actions, particularly storage and conveyance projects. Under current law, final permit actions for new surface storage can be taken only after the completion of project-specific feasibility investigations and environmental impact evaluations.

IP-1.2-4

As summarized in the Implementation Plan and detailed in the Comprehensive Monitoring, Assessment, and Research Plan (CMARP), monitoring and adaptive management are integral elements of the CALFED Program implementation.

IP-1.2-5

CALFED's Water Management Strategy and Implementation Plan both implicitly recognize the greater flexibility provided by water use efficiency, water transfers, groundwater management, and other actions. Although surface storage may provide larger increments of water, it too can contribute to system operational flexibility (please see the EWA in the Phase II Report). It is not necessary to include a comparative analysis of the various water management tools' compatibility with adaptive management. Instead, proposed Stage 1 actions propose substantial early investment in water use efficiency, water transfers, groundwater management, and other actions. These broad-based water management actions will rely to a large extent on adaptive management to provide tools for modifying implementation based on what is learned during implementation of individual actions. For adaptive management to be applied successfully, each such action must be accompanied by a carefully structured monitoring and evaluation program that is tailored to resolve the critical scientific questions. This project-level detail can be developed only on a case-by-case basis. However, CALFED also recognizes that the planning process for large surface storage projects takes many years to complete, and thus deems it prudent to advance the necessary environmental and feasibility studies in order to ensure that such storage options are implementable in the framework of the Water Management Strategy and the regulatory compliance requirements. Please also see response PH2: 3.6.1-26.

IP-1.2-6

CALFED is committed to full compliance with all applicable laws and regulations in the planning process, which for a major project such as new surface storage is necessarily a lengthy and complex process because of the many environmental, engineering, economic, and water management concerns that must be thoroughly assessed. CALFED seeks to develop a framework for a coordinated approach to the analysis of surface water and groundwater storage (the Integrated Storage Investigation), and to streamline the regulatory compliance process (especially the CWA, Section 404). CALFED is committed to inter-agency coordination on the planning efforts for all major Program components. This approach will not guarantee that specific projects will be constructed but will provide a more reliable and streamlined framework for planning than was previously available. Please also see response PH2:3.6.5-45.

IP-1.2-7

CALFED has gone well beyond the normal level of detail for programmatic EIS/EIR documentation endeavors and has described alternative actions, their benefits, and impacts that may accrue. Despite the large geographic scope and complexity of the Program, CALFED has defined a fairly specific range of potential impacts based on a systematic grouping of assumptions about Delta protective actions, water demands, and action alternatives. While it would be highly desirable to reach complete agreement among CALFED agencies and stakeholders on the issues of governance, finance, and assurances, these are not legally required components of the Programmatic EIS/EIR and Programmatic ROD. The level of definition achieved on these issues by the time of the Programmatic ROD will primarily be a function of the degree to which CALFED agencies and stakeholders find areas of agreement that can then be formalized by CALFED. In addition, CALFED is continuing to refine its Water Management Strategy to include more information on how surface and groundwater storage can fit into the system. This refinement will include opportunities for public review and comment.

1.3 Governance

IP-1.3-1

CALFED agrees and hence has devoted considerable effort to formulating a proposed interim and long-term governance structure for the Program, as detailed in Section 4, "Governance," in the Implementation Plan.

1.4 Finance

IP-1.4-1

The Programmatic EIS/EIR and companion documents do not spell out with specificity who the Program beneficiaries are and how the Program costs will be allocated among users. As noted in the Financing Plan (Section 5 in the Implementation Plan), a fundamental principle for allocation of Program costs is that beneficiaries should pay the cost of benefits received. The plan recognizes the difficulty of applying this principle in practice and indicates that policy judgments and negotiations will be necessary to establish Program financing. During implementation, it is anticipated that Program financing will be achieved through a series of inter-dependent actions, including bond measures, legislative appropriations, user fees, and other mechanisms. For individual projects, the level of detail for project-specific funding will be commensurate with the level of project planning (Please also see response IPF 5.6-1).

IP-1.4-2

CALFED agrees that it would be preferable to have all details of a complex plan laid out at the outset, so that all stakeholders can fully weigh their benefits and allocated costs. However, the current Program plan, including the Financing Plan, is programmatic in nature, designed to be implemented in stages over 30 years or more. The CALFED agencies believe that it is unrealistic to seek to develop a complete, highly detailed Financing Plan prior to the Programmatic ROD for the programmatic planning phase of the Program. However, stakeholders will have full opportunities to evaluate the costs and benefits of individual Program components during the project- level planning phase for each component.

IP-1.4-3

Stage 1 costs are documented in Section 5 in the Implementation Plan. The table indicated that the $2 million figure is for both recycling and water conservation. Projected expenditures have been revised and can be found in Section 5, "Financing Plan." CALFED shares the commentor's interest in assuring that expenditures are well balanced and cost effective.

IP-1.4-4

The treatment, storage, and disposal of hazardous wastes and investigation and remediation of environmental contamination from hazardous wastes and/or hazardous substances are already regulated by a variety of federal and state laws and regulations, including the Resource Conservation and Recovery Act; Comprehensive Environmental Response, Compensation, and Liability Act (Superfund); National Oil and Hazardous Substances Pollution Contingency Plan; California Health and Safety Code; California Code of Regulations; and California Water Code. Those laws and regulations include many of the concepts that the commentor recommended. Therefore, The CALFED agencies believe that these concerns are adequately regulated by separate authorities.

1.5 Implementation Actions

IP-1.5-1

CALFED appreciates this invitation and will consider the city, along with other potential locations, taking into consideration an appropriate range of factors, such as proximity to implementation sites, suitable access, available sites, proximity to population centers, and so on.

2. Stage 1 Actions

IP-2.0-1

As described in Section 2 in the Implementation Plan, CALFED has proposed specific actions for Stage 1 to achieve balanced Program implementation with benefits in water supply reliability, water quality, levee system integrity, and ecosystem quality. In many cases, the benefits of implementation are quantifiable; in others, the benefits will vary depending on the level of implementation, the results of research, and development of optimal solution approaches based on adaptive management. The degree of progress in Stage 1 will also highly depend on the funding that becomes available to support the implementation process.

IP-2.0-2

The commentor's observation on the duration of time required to complete Stage 1 actions is probably correct. The time estimates were based on the assumption that there are no major technical, logistical, financial, or political issues to halt progress. In other words, the duration estimates were the most optimistic that could be justified by estimates of the actual effort required to complete each action. CALFED agrees that accuracy, completeness, and scientific evaluations must be implementation priorities.

IP-2.0-3

CALFED does not doubt the value of laying out a water budget that explicitly identifies all budget elements. To the extent feasible, CALFED's analysis is based on such a water budget accounting, which takes into account

existing hydrologic features of the system, existing and proposed operating criteria, existing and proposed facilities, and explicit assumptions about the potential effectiveness of structural and nonstructural water management efforts. Since future hydrologic conditions are unknown, historical hydrologic records are used as samples of potential future years, with the full recognition that each new year is unique and inherently unpredictable. No matter how detailed and explicit the modeling/water budget accounting process, the best we can do is make educated guesses about the potential range in future hydrologic conditions, effectiveness of water management measures, and economic conditions. Accordingly, CALFED has sought to bracket the range of potential outcomes and impacts by grouping assumptions under Criterion A and Criterion B, as described in Attachment A in the Programmatic EIS/EIR. (Please also see response IP-1.1-26.)

2.4 Water Use Efficiency

IP-2.4-1

The Implementation Plan is a programmatic-level document that will guide more specific implementation efforts. During Stage 1, the Water Use Efficiency Program will work with local and regional agencies on strategies to address impediments to water recycling and may incorporate some of the commentor's strategies for working through institutional and public policy hurdles. Cost estimates likely will change during actual implementation of the CALFED Preferred Program Alternative. The Water Use Efficiency Program will work with local and regional agencies to refine this estimate.

2.6 Watershed Program

IP-2.6-1

CALFED's Stage 1 watershed management actions do not identify specific watersheds and projects to be implemented. The Stage 1 action list, developed with extensive stakeholder input, is designed to establish a fair, open, efficient, and scientifically defensible approach to implementing watershed restoration actions. Therefore, the merits of watershed management projects in the Feather River basin will be considered in this process in order to determine the portion of funding allocated to this component.

2.7 Storage

IP-2.7-1

CALFED has identified actions that will be taken in Stage 1 to expand storage capacity at existing reservoirs and strategically located off-stream sites by approximately 950 TAF, and to implement a major expansion of groundwater storage for an additional 500 TAF to 1 MAF. Decisions to construct groundwater or surface water storage will be predicated on compliance with all environmental review and permitting requirements, and maintaining balanced implementation of all Program elements.

Surface storage facilities require a substantial period of time to plan, design, and construct, depending on the proposed project, technical difficulties, impacts, and financing issues. Groundwater storage and conjunctive use projects are generally less facility-intensive but require extensive local coordination, monitoring, and modeling prior to construction. During Stage 1, CALFED—in cooperation with local partners—will complete feasibility studies and initiate environmental review and permit application processes for storage projects, as described in the Phase II Report. It is anticipated that construction of new storage projects will be initiated later in Stage 1, if all conditions are met. Please also see common response 4.

IP-2.7-2

The support is appreciated.

2.8 Conveyance

IP-2.8-1

The Programmatic EIS/EIR includes a Preferred Program Alternative that is consistent with the programmatic nature of the document (please see common response 1). In the June 1999 Draft Implementation Plan, CALFED recommended a preferred alternative to be evaluated along with other alternatives in the project-level environmental documentation for south Delta facilities improvements, in order to help identify and resolve the various technical and policy issues surrounding the south Delta. CALFED made its recommendation with the best available information at the time, including a recognition of the uncertainty involving many aspects of that information, and with detailed information regarding stakeholder concerns and interests.

Based on operational experience over the past several months, input from the stakeholder community, ongoing coordination with the Corps/DWR Comprehensive Flood Control Study, and progress with our technical studies, the CALFED agencies believe that it is appropriate to reevaluate the specific recommendations with respect to south Delta facilities improvements. Therefore, the south Delta preferred alternative has been removed from the Implementation Plan. Various alternatives will be evaluated in a project-specific environmental document, including the installation of a fish control barrier at the head of Old River and three flow control structures (on Old River, Middle River, and Grant Line Canal)—or their functional equivalents. CALFED will pay particular attention to developing an appropriate implementation sequence, such that incremental actions can provide balanced improvements across the various resource categories at each implementation step. Included in such an evaluation will be development of appropriate base conditions for the necessary modeling effort(s). Determining the appropriate base conditions is a project-specific concern that will be addressed in the project-specific evaluation. Therefore, it was not necessary to establish such project-specific base conditions for the programmatic evaluation. However, CALFED understands the shortcomings of its preliminary analysis and will continue to work with interested stakeholders to establish appropriate base conditions to evaluate alternatives for south Delta facilities improvements.

CALFED has taken no action on the 1991 agreement between the South Delta Water Agency (SDWA), Reclamation, and DWR. That agreement was signed by the SDWA and DWR, but not by Reclamation. DWR has made every effort to complete its obligations under the agreement, including modifying SWP Clifton Court Forebay gate operations, dredging and installing siphons for Tom Paine Slough, installing temporary barriers as permits and hydrologic conditions have allowed, and advancing the planning process for permanent facilities. CALFED's current approach is to meet the substantive goals of the settlement agreement with a more comprehensive range of actions, with the hope that further action to finalize the agreement will be unnecessary.

CALFED acknowledges and shares stakeholder concerns regarding the effectiveness and potential impacts of the various proposed actions. However, there is substantial flexibility in the recommended approach to ensure that south Delta water quality and supply availability are not affected, despite higher export rates during certain periods of the year and a new pumping regime designed to accommodate screening of the SWP and CVP intakes. Specifically, a south Delta facilities improvements project purpose statement has been developed that states:

> The purpose of the South Delta Improvements Project is to improve the reliability of the existing State Water Project facilities and operations within the south Delta, while ensuring that water of

adequate quantity and quality is available for diversion to beneficial use within the South Delta Water Agency's service area; and to contribute to restoring the ecological health of aquatic resources in the lower San Joaquin River and south Delta.

Project purpose statements have been developed for the other actions planned in the lower San Joaquin River and south Delta. In addition, the CALFED approach calls for a comprehensive group of actions, which would directly or indirectly benefit the south Delta region, including the SDWA service area. That approach includes the evaluation and, where practical, implementation of solutions to the problem of low dissolved oxygen in the lower San Joaquin River.

In summary, CALFED has sought to develop a broad, well-integrated solution approach to the lower San Joaquin River and south Delta region's water management and fisheries concerns, which includes substantial flexibility, opportunity for continued stakeholder input, application of adaptive management, and a broad set of actions to attack problems from many fronts.

IP-2.8-2

CALFED agrees that these actions, as well as nearly all Delta actions are controversial and require appropriate permits before they can move forward. The Implementation Plan should have made clear that the Programmatic EIS/EIR and the accompanying appendices define a broad vision with specific suggestions for Stage 1 implementation actions. However, all proposed actions need to undergo appropriate project-level feasibility and environmental review and permits approval before implementation, with full opportunity for public review and comment. Therefore, inclusion in the Stage 1 action list does not guarantee that a particular action will proceed; it is merely an indication that the action is considered by CALFED to be important, urgent, and potentially implementable. The list of Stage 1 actions will be updated based on comments received, Program development, projected funding, and the evolution of CALFED's implementation priorities. The proposed conveyance actions that one commentor recommends for deletion are actions that may provide significant improvements in Delta conveyance, in terms of water quality, water supply reliability, and fisheries impacts. Therefore, the actions have not been deleted from the Stage 1 action list as requested.

IP-2.8-3

CALFED agrees with the commentor's observations. The proposed approach to future decision making is reasonable but will be subject to change as future events unfold.

IP-2.8-4

CALFED agrees with this recommendation, as reflected in the impact analysis operational assumptions and in the proposed Stage 1 actions for conveyance. Potential actions include implementation of Joint Point of Diversion, physical inter-ties between the two systems at the intakes and between the aqueducts, consolidation of screened intakes, and better operational coordination. Such coordination needs to consider and respect existing water rights protections for all water users who might be affected by better coordination of export operations.

IP-2.8-5

The statement in question (in Section 5.2.8.1 in the June 1999 Draft Programmatic EIS/EIR under "Alternative 1 - Delta Region - Stage") has been deleted; therefore, no action is necessary.

IP-2.8-6

CALFED Stage 1 actions provide for an evaluation of flow recirculation into the San Joaquin River, using water from the Delta-Mendota Canal (please see "South Delta Improvements" in the Phase II Report). While it is possible for this recirculation to contribute to environmental pulse flows, it is unlikely that the recirculation could provide all the flows needed. To achieve the intended ecosystem benefit, pulse flows require a large volume of water over a relatively short duration. The rate of flows required is larger than the capacity of the Delta-Mendota Canal. Due to the programmatic nature of the CALFED Program, no specific decisions have been made concerning the best way to provide the flows. However, it is likely that the flows will come from willing sellers or water developed by CALFED Program. The pulse flows are not expected to adversely affect water rights or Delta statutes.

IP-2.8-7

The requested evaluation will be incorporated into the project-specific evaluations for a screened diversion facility on the Sacramento River.

2.9 Assurances and Institutional Arrangements

IP-2.9-1

As noted in the Implementation Plan, CALFED proposes implementation of an MSCS and notes the need for a final SWRCB decision on water rights allocations for the Water Quality Control Plan. These are the key elements for achieving a higher degree of regulatory certainty than current circumstances allow. In addition, one of the key goals of the Ecosystem Restoration Program is to restore listed and sensitive aquatic species in order to reduce the conflict between those species needs and the needs of Delta water users. It should be noted that the SWRCB reserves the right to periodically reassess water rights allocations for the Delta, and thus no permanent, absolute regulatory certainty can be guaranteed.

3.0 Near-Term (Stage la) Actions

IP-3.0-1

CALFED agrees that the various Stage 1 actions in the south Delta represent key actions that can provide immediate regional and statewide benefits in terms of water supply reliability, water quality, ecosystem quality, and levee system integrity. The Programmatic EIS/EIR provides the broad conceptual framework for implementing these actions and discloses the potential range of impacts and benefits of these actions. However, final decisions on the implementation of any of these actions requires complete, project-level compliance with CEQA, NEPA, the CWA, the federal and state ESAs, and all other applicable laws and regulations. Final decisions therefore cannot be guaranteed at the time of the Programmatic ROD. Depending on the actions, such compliance requires various levels of project-specific environmental review, ranging from categorical exemptions to full EIS/EIRs. Where impacts (including secondary and cumulative impacts) are less than significant, certain actions can proceed to the project approval and implementation stage prior to or concurrent with the completion of the Programmatic EIS/EIR. However, for most actions with significant impacts, the project-level environmental documentation will be tiered off the Programmatic EIS/EIR and completed subsequent to the Programmatic ROD. There are currently no plans for recirculating the Draft Programmatic EIS/EIR.

IP-3.0-2

CALFED supports the implementation of the San Joaquin River Agreement and the VAMP, with careful annual monitoring of potential effects on downstream flow and water quality. Any potentially significant adverse impacts need to be mitigated.

IP- 3.0-3

CALFED will continue to evaluate potential implementation actions in light of Program objectives, available funding, CALFED agency responsibilities, stakeholder input, and the results of monitoring actions that have been initiated.

4. General Responses

IP 4.0-1

The June 1999 Draft Programmatic EIS/EIR describes the interim Governance Plan and indicates that CALFED would develop the long-term governance structure and decision-making processes by the time of the Final Programmatic EIS/EIR. Development and adoption of an effective long-term governance structure is critical to the success of the CALFED Program. CALFED has been working with agencies, stakeholders, and the State and Federal Legislatures to develop a long-term governance structure. A primary function and responsibility of any long-term governing structure is to provide program integration and balance. CALFED agencies are proposing the creation of a joint federal-state commission for the long-term governing structure with state, federal, stakeholder, and tribal representatives. Establishing a new commission will require state and federal legislation. Therefore, the governance plan is only a proposal at this stage. By including public members on the commission and holding public meetings, public participation in decision making will be increased.

If legislation is adopted to establish a new commission, consideration will be given to geographic and interest group representation. In addition, CALFED agencies propose that agencies retain their regulatory authority, but some program authorities may fall within the scope of the commission and be subject to commission oversight. Governance is only one aspect of assurances; one must look at all parts of the Program to judge the adequacy of the assurances provided by the CALFED Program.

IP 4.0-2

As explained in Chapter 1 in the Programmatic EIS/EIR, the CALFED Program is a consortium of 18 state and federal agencies with management or regulatory responsibilities or expertise in the Bay-Delta estuary. Each of these agencies may carry out a second-tier project or be affected by the Program as it is implemented. At this programmatic level, it is unknown which agency will have the principal responsibility for carrying out or approving second-tier projects. It is most likely that the CALFED agencies with the appropriate legislative authority for each project would implement second-tier projects. Since the proposed CALFED Program actions are evaluated in the Programmatic EIS/EIR, the analysis may be used by any agency with authority to carry out parts of the Program in second-tier projects.

As a programmatic planning-level document, the Programmatic EIS/EIR does not analyze site-specific impacts of future projects at proposed locations and therefore cannot predict with certainty which impacts will occur and what site-specific mitigation measures are appropriate for second-tier projects. Consequently, the Programmatic EIS/EIR identifies mitigation strategies, approaches tailored to the types of impacts anticipated as a result of

CALFED Program projects, that will provide the basis to structure more specific mitigation measures. For each potentially significant environmental impact, one or more mitigation strategies are identified. These mitigation strategies will be considered as part of second-tier environmental review by any agency proposing to undertake projects that are within the scope of this Programmatic EIS/EIR. Where a second-tier project involves impacts that are addressed in the Programmatic EIS/EIR, the applicable mitigation strategies can be used to formulate site-specific mitigation measures and enforcement programs. The commitment to consider mitigation strategies, and to apply and enforce mitigation measures pursuant to those strategies, will be included in the ROD for the federal lead agencies and the findings adopted by the California Resources Agency. In addition, any state or federal project funded through legislation that provides for projects to be consistent or in accord with the CALFED Program will need to demonstrate compliance with this mitigation monitoring program, as set forth in the Mitigation Monitoring Plan adopted at the time of the ROD and certification of the Programmatic EIS/EIR.

Prior to the establishment of the long-term governing structure, the CALFED Policy Group will be the forum in which the agencies coordinate and collaborate on Program implementation. In the interim, authority to implement the CALFED Program will continue to reside with the CALFED agencies. The CALFED Program does not alter any agency's existing authority, does not delegate any agency's authority, and does not supplant any existing regulatory authority. In addition to other powers and responsibilities, the CALFED agencies have authority to participate in this cooperative planning effort.

IP 4.0-3

For the interim period of implementation, stakeholder participation will be provided through public participation in Policy Group meetings and work groups/technical groups in which stakeholders will participate, and possibly a new public advisory group. CALFED currently is proposing the creation of a new commission for long-term governance of the CALFED Program. Establishing a new commission will require state and federal legislation. As proposed, the commission would include state, federal, stakeholder, and tribal representatives.

CALFED agrees that the governing entity, whether the Policy Group or a new commission, must make the decisions regarding Program progress, integration, and balance. The new commission would be given the necessary authority to make corrections or adjustments to the Program, within the limits of the Programmatic EIS/EIR. This authority will be necessary to ensure that the Program is implemented in a balanced manner and that progress is made in all Program areas. However, CALFED also agrees that the Policy Group or a new commission needs to be accountable to the public, stakeholders, and State and Federal Legislatures. Decisions should demonstrate program balance and should be done in a public forum with public input.

IP 4.0-4

NEPA and CEQA are intended to inform decision makers and the public of the environmental consequences of a proposed action, provide an analysis of alternatives, and ensure consideration of mitigation options. The governmental or decision-making structure, however, does not cause physical changes to the environment or affect the analysis of anticipated impacts, alternatives, or mitigation options. Since the proposed CALFED Program actions are evaluated in the Programmatic EIS/EIR, the analysis may be used by any agency with authority to carry out parts of the Program in second-tier projects.

Because this is a programmatic analysis, many of the details of the individual actions within the Program cannot be analyzed in detail. Consequently, before most actions that are part of CALFED's programmatic decision can be implemented, they will be studied on a project- or site-specific level. The agency implementing a second-tier project will also be responsible for the environmental review of that project.

CALFED will continue to work in public forums with stakeholders, the public, and the State and Federal Legislatures as the governance proposal is refined. Any decision on long-term governance will require legislative action and, therefore, additional opportunities for public input will be provided.

IP 4.0-5

CALFED has developed a framework for long-term governance in the Final Programmatic EIS/EIR. Additional details regarding a new Commission will be developed by the time of the ROD. The proposal will require legislative changes; therefore, CALFED cannot take action independently to finalize a long-term governance proposal.

IP 4.0- 6

CALFED agrees that governance of the CALFED Program will require a change in authorities to enable the integration and coordination of the many programs currently managed by existing state and federal agencies. CALFED is working with state and federal agencies to determine which programs and funding should be under the authority of a new commission, if one is created. CALFED also agrees that a strong state/federal partnership in a CALFED governance structure is critical. Several structural options are being evaluated to determine how each supports a partnership. However, CALFED does not support a change in regulatory authorities or the subordination of regulatory authorities to the CALFED Program. Instead, CALFED proposes development of a program that meets and, in some cases, exceeds regulatory requirements. One of the main functions of the governing entity for the CALFED Program will be facilitation and coordination between state and federal agencies where independent regulatory authorities exist—such as the operation of the water projects and protection of endangered species. CALFED does not propose shifting those authorities under the management of a new entity but rather increasing the communication and coordination of the actions to reduce conflicts.

4.1 Background

IP 4.1-1

The members of the BDAC represent a broad cross section of interests related to the CALFED Program. Representation of groundwater interests in the Sacramento Valley is provided by the Northern California Water Association, Glenn-Colusa Irrigation District, and Community Alliance of Family Farmers. In addition, a groundwater/conjunctive use technical work group provides the opportunity for stakeholders to provide input into the Program.

4.2 Program Functions for Implementation Phase

IP 4.2-1

CALFED agrees that coordinated implementation of CALFED programs and close coordination between CALFED and other programs is an important governance function. This function is one of the primary purposes of the Policy Group as the interim governing entity and will be a primary function of the long-term governance entity, in whatever form it is set up.

The comment does not give a source for the affected agricultural land numbers, but they may be a compilation of several numbers in the Multi-Species Conservation Plan, including: Managed Seasonal Wetlands - 290,125-300,125 acres; Upland Cropland/Seasonally Flooded Agricultural Land - 353,933-388,933 acres; and the maximum of 243,000 acres of Important Farmlands that could be converted, as included in Section 7.1 in the Programmatic EIS/EIR. Adding these numbers to derive an acreage figure for agricultural lands affected by the Program is erroneous.

- The Managed Seasonal Wetlands figures include, for the most part, existing wetlands that would be improved and are not in agricultural use. The portion that would be newly created wetlands is already included in the 243,000-acre conversion figure in Section 7.1.

- The Upland Cropland/Seasonal Flooded Agricultural Land number will affect, but will not convert, agricultural lands; economic effects on lands in this category are discussed in Section 7.2. The June 1999 Ecosystem Restoration Program – "Ecological Attributes of the San Francisco Bay-Delta Watershed" – on pages 100-168, defines the uses of these areas.

Section 7.1.11 in the Programmatic EIS/EIR contains a number of mitigation strategies that are designed to minimize the amount of agricultural acreage that is converted to Program uses, including:

- Focusing habitat restoration efforts on public lands before converting agricultural land.

- Restoring existing degraded habitat as a priority before converting agricultural land.

- Using farmer-initiated and -developed restoration and conservation projects as a means of reaching Program goals.

- Siting and aligning Program features to avoid or minimize impacts on agriculture.

Given the location of agricultural lands in the state, the Program could not be successful without some conversion of agricultural lands to Program purposes.

IP 4.2-2

CALFED has developed a proposal for a long-term governance structure with primary functions of program oversight, direction, integration, and coordination. CALFED is proposing the creation of a new commission with sufficient authority over Program priorities and funding for each Program element to ensure achievement of the Program objectives and Program integration. Establishing a new commission will require state and federal legislation. The commission would provide a public forum to direct the CALFED Program. In the interim, the Policy Group will provide the oversight, direction, evaluation, and assessment for the CALFED Program. Independent evaluation or assessment of the CALFED Program, in the interim and long term, would be provided by the State and Federal Legislatures. In addition, independent science review of the Program has begun and will continue as a critical component of the Program. CALFED is not proposing to establish a formal appeals process. It is expected that public concerns will be voiced through informal appeals to the CALFED Policy Group in the interim and the new commission in the long term—as well as through public advisory groups, such as the Drinking Water Council.

For information on CALFED solution principles and third-party impacts, please see common responses 19 and 20.

4.3 Program Oversight - Governance Structure

IP 4.3-1

Public Policy Group meetings and BDAC meetings have provided and will continue to provide an opportunity for public input. A principle for designing any long-term governing structure and process is to involve the public and stakeholders in the decision-making process. We agree that the Delta Protection Commission (DPC) should be a partner with CALFED in the implementation of the Program, and that CALFED issues and projects of concern to the DPC should be discussed at the DPC public meetings. A primary function of the current and long-term governing structures is to provide the integration and balancing between Program areas.

To date, CALFED has funded more than $200 million for early implementation of ecosystem restoration projects through its Category III grant program pursuant to Proposition 204 and the Bay-Delta Act. All grant agreements require, as a condition of funding, that the project comply with all applicable laws and regulations, including NEPA, CEQA, and other environmental permitting requirements. In some instances, CALFED grants have included funding for preparation of environmental documents that must be completed before undertaking changes with potentially significant environmental impacts. The applicability of CEQA and NEPA depends on the nature of the proposal for grant funds. Many CALFED grants have funded education, planning, and research activities that are not the type of activities that trigger full-scale CEQA or NEPA review. Other proposals receiving grant funding, such as fish screens, land acquisitions, and physical restorations, have used negative declarations/findings of no significant impact (FONSIs) or have prepared EIRs or EISs independent from the CALFED Programmatic EIS/EIR. Other actions also may have been eligible for categorical exemptions/categorical exclusions.

IP 4.3-2

We agree that CALFED should work closely with the DPC, that the implementation of the CALFED Program in the Delta should be coordinated with the DPC, and that the DPC can provide a useful forum for working with local agencies and landowners in the Delta. In the early stages of implementation of the Ecosystem Restoration Program, CALFED has begun to benefit from the coordination with the DPC and has recently added a representative from the DPC to the Policy Group. The relationship with the DPC should continue to expand as full implementation of the CALFED Program begins.

IP 4.3-3

CALFED agrees that prior to the ROD, a proposal must be prepared regarding a long-term governance plan and interim governance implementation. The principles and functions outlined in the draft Governance Plan are being used to guide the long-term governance proposal. CALFED currently is proposing the creation of a new commission to replace the Policy Group. Establishing a new commission will require state and federal legislation. The long-term governance proposal is described in Section 4 in the Implementation Plan. Interim operating agreements (such as an Implementation MOU) will need to be developed by the time of the ROD or early in Phase III.

IP 4.3-4

CALFED is currently proposing the creation, by state and federal legislation, of a new commission to provide Program direction for the CALFED Program. For a detailed description of this proposal, please see revised Section 4 in the Implementation Plan.

IP 4.3-5

During the interim period, the Western Area Power Administration (Western) will continue to be represented on the CALFED Policy Group, which will act as the interim governance structure. The creation by state and federal legislation of a new commission to provide program direction for the CALFED Program currently is being proposed by CALFED. The proposal includes state, federal, stakeholder, and tribal commission members. The final decision on membership will rest with the State and Federal Legislatures. If the legislatures establish a new commission, there is a need to keep the number of members to a workable size. Therefore, it will not be possible to include all Policy Group members on a new governing board. Because those agencies that are not on the governing board will need to play a strong role in implementation of the CALFED Program, possibly contracts or memoranda of agreement will be needed to define their working relationship to the Program.

IP 4.3-6

CALFED is incorporating local community-based involvement in the interim and long-term governance structures. The CALFED Watershed Program is designed to provide technical and financial assistance to local watershed programs and to facilitate coordination among these watershed programs in order to achieve the CALFED Program objectives. We agree that the program should not be a "top-down" program, rather programs and projects funded by CALFED should be community based and target CALFED priorities and objectives.

In the interim and long-term governance of the Program, stakeholder and technical work groups (such as the Watershed Work Group) will be continued for all the program areas, including the Watershed Program. Until a long-term governance structure is in place, the Policy Group will serve as the interim governing structure—along with the Watershed Work Group and the Interagency Watershed Advisory Team. CALFED proposes the creation of a public advisory group to advise the new commission. CALFED is evaluating the need to create an interim public advisory group. Any proposal for a new CALFED governing structure will describe the relationship of the new entity to other existing and proposed entities.

Currently, CALFED is proposing the creation of a new commission to replace the Policy Group and provide long-term program direction. Establishing a new commission will require state and federal legislation. CALFED proposes a 12-member commission, with 4 state, 4 federal, and 4 stakeholder positions. Federal and State Legislatures would share the authority to appoint the stakeholder positions. The 4 stakeholder positions would include representatives from agricultural water users, urban water users, environmentalists, and Indian tribes. Additional detail is found in Section 4 in the Implementation Plan.

IP 4.3-7

As explained in Chapter 1 in the Programmatic EIS/EIR, the CALFED Program is a consortium of 18 state and federal agencies, including the California Department of Food and Agriculture, with management and regulatory responsibilities or expertise in the Bay-Delta estuary. CALFED agrees that agricultural interests should be represented in a new governing entity.

IP 4.3-8

CALFED recognizes that local participation and support for implementation of CALFED programs and projects will be essential. Currently, CALFED is proposing the creation of a new commission to replace the Policy Group and provide long-term program direction. Establishing a new commission will require state and federal legislation. CALFED agrees with the need for mechanisms for local involvement. We are working to describe how that

process will be implemented in the interim and long-term structures. A primary method of local outreach and involvement in the CALFED Program has been through the Watershed Program. The Watershed Program is designed to provide technical and financial assistance to local watershed programs and to facilitate coordination among local programs in order to achieve the CALFED Program objectives. We agree that the program should not be a "top-down" program, rather programs and projects funded by CALFED should be community based and target CALFED priorities and objectives.

IP 4.3-9

CALFED is currently characterizing the functions of a policy-level body as providing "program direction and oversight," and management of the Program elements as "program management." These functions and responsibilities have been considered when evaluating and selecting the optimal institutional structure for CALFED implementation. CALFED agrees that clearly assigning the responsibility for meeting Program objectives and targets is essential. CALFED will continue to work with agencies, stakeholders, and the Legislature to develop a long-term Governance Plan that successfully addresses these issues. Currently, CALFED is proposing the creation of a new commission to provide overall direction and oversight. Establishing a new commission will require state and federal legislation. The proposal, contained in Section 4 in the Implementation Plan, generally describes the relationship between the commission responsibilities and the management of the Program elements. In addition, Section 4 describes the authority needed by the commission to effectively oversee and direct the CALFED Program for 30 or more years.

4.4 Program Element - Governance Structure

IP 4.4-1

In the Final Programmatic EIS/EIR, CALFED has included a description of the problems that the current institutional structure will present as the Program shifts from planning to implementation. Currently, CALFED is proposing the creation of a new commission to provide long-term program direction and oversight. CALFED is reviewing the responsibilities and functions of each Program element to determine what institutional options would best perform those functions in order to meet Program objectives. CALFED agrees that to meet the Program objectives, the water supply reliability/water management program needs to integrate many of the CALFED programs (such as water use efficiency, transfers, storage, and conveyance). In developing the long-term governance proposal contained in Section 4 in the Implementation Plan, CALFED evaluated the institutional options for all the Program elements, including water management, and the need for integration and coordination among the CALFED programs.

4.4.3 Ecosystem Restoration Program

IP 4.4.3-1

During the interim, the Ecosystem Restoration Program will be overseen by the CALFED Policy Group, managed by the CALFED Program, and implemented by existing agencies, with scientific and public input and consultation. CALFED has evaluated several governing structures to determine which would best meet the Ecosystem Restoration Program targets and objectives, and provide the necessary integration with the CALFED Program as a whole. CALFED has not made a final recommendation regarding Ecosystem Restoration Program management in the long-term. The Ecosystem Restoration Program is a large and complex program that requires focused management. CALFED is evaluating how a new commission can effectively provide this management responsibility. A final proposal for management of the Ecosystem Restoration Program will be provided by the

time of the ROD or early in Phase III. The EWA will be managed by the state and federal fishery agencies (USFWS, NMFS, and DFG), in coordination with the management of the Ecosystem Restoration Program and water project operations, and with stakeholder and scientific input. The EWA and the role of the fishery agencies are described further in the Phase II Report and in Section 4 in the Implementation Plan.

We agree that the Ecosystem Restoration Program and other Program areas need a strong scientific and technical basis to achieve the Program objectives.

IP 4.4.3-2

The EWA will be managed by the state and federal fishery agencies (USFWS, NMFS, and DFG), in coordination with the management of the Environmental Restoration Program and water project operations, and with stakeholder and scientific input. The relationship of the Environmental Restoration Program and the EWA is described further in Section 4 of the Implementation Plan and the Phase II Report.

IP 4.4.3-3

CALFED agrees that a long-term commitment to manage, operate, and maintain restoration projects is needed in order to ensure that Program objectives and targets of the Watershed and Ecosystem Restoration Programs are met. Funding for acquisition of lands will need to be accompanied by a commitment to manage, operate, and maintain those lands for the CALFED purposes. In some cases, lands acquired and restored would become part of the state wildlife area system or federal refuge system. In other cases, the lands may remain in private ownership through easements. In the early Ecosystem Restoration Program, financing was provided for land acquisition and restoration actions. In most cases, ongoing costs for operations and maintenance have been the responsibility of the project proponent—whether federal, state, local, or private. The cost-sharing approach for ecosystem project operations and maintenance for the long-term implementation of the Ecosystem Restoration Program has not yet been developed.

IP 4.4.3-4

The CALFED Program intends to rely heavily on local organizations to assist in achieving the CALFED Program objectives. Locally directed programs and organizations, such as the Senate Bill (SB) 1086 program, will contribute to the overall success of CALFED by being the primary point of contact for restoration in their local area. Therefore, CALFED supports the new management entity for the SB 1086 program. CALFED is providing assistance in other areas of the state and on tributaries of the Sacramento and San Joaquin Rivers to establish similar locally based organizations that bring together different interests.

IP 4.4.3-5

CALFED agrees with your comment that the autonomy of an appointed board would be increased if the terms of the appointments were staggered rather than serving at the pleasure of the Governor. Currently, CALFED is proposing a new joint state and federal commission with 12 members equally divided between state agency, federal agency, and public members. The agency members would be specifically designated in the authorizing legislation and would be high-level officials of their organizations, such as USFWS and The Resources Agency. It is expected that the Governor or the President would appoint public members. The length of the terms for the public members has not been proposed. We agree that when considering the terms, the need to stagger the appointments is an important consideration. In addition to providing the overall direction and oversight for the CALFED Program, CALFED is evaluating the ability of a commission to manage the Ecosystem Restoration Program. A

final proposal for management of the Ecosystem Restoration Program will be provided by the time of the ROD or early in Phase III. Thank you for your comment in support of the CALFED Science Program.

4.4.5 Water Use Efficiency Program

IP 4.4.5-1

We agree that all barriers to water recycling should be evaluated, not only the financial and technical ones. In Stage 1 of the Program, CALFED proposes that legal, institutional, and funding limitations for agricultural and urban water recycling be resolved. The identification of the barriers to recycling and the method for removing the barriers are still being developed by CALFED and will not be included in the Final Programmatic EIS/EIR. The criteria and factors to be used in awarding financial assistance for water recycling will be developed during Stage 1. Public review and input will be sought in the development of the criteria. CALFED agrees that the Department of Health Services should be actively involved in the CALFED water recycling program.

5.0 Financing Plan

0. General Responses

IPF 5.0-1

Since this is a Programmatic Environmental Impact Statement/Environmental Impact Report (EIS/EIR), the specifics for designing and financing the specific components of each program have not been finalized; however, principles and strategies are being developed to help guide the CALFED Bay-Delta Program (Program) in making sound funding decisions during its implementation. Chapter 5 in the Implementation Plan (Financing Plan) contains the initial framework for developing a Program Financing Plan. This plan is a programmatic document, however, and is designed to highlight key issues and principles that will guide financing decisions over the 30-year life of the Program. It is not intended to be a complete, highly detailed finance plan.

The Financing Plan contains a discussion of historical cost-sharing, cost-allocation procedures; proposed cost-sharing scenarios; cost estimates for Stage 1 of Program implementation; and a preliminary identification of classes of beneficiaries for each of the Program elements. More detail may be provided by the time the Record of Decision (ROD) is signed.

Further, implementation of any financing arrangement for the CALFED Program will depend on continued cooperation among all parties, including the Congress, the California Legislature, and perhaps county boards of supervisors and water district governing boards. CALFED recognizes the need for a mix of funding sources, which might include appropriations of funds, creation of special funds, imposition of fees to support those funds, and approval of bond acts; but none of the CALFED agencies may spend government revenues without explicit statutory authority. The consequence is that the CALFED agencies can only propose a financing plan; we cannot implement a financing plan without continuing legislative action.

IPF 5.0-3

Specifics surrounding financing for the Program, such as identified funding for specific projects, will be determined during implementation of the Program. The Financing Plan contains general principles to guide funding during implementation. CALFED has taken into account its obligations to comply with the commitments included in the state's area-of-origin laws. For more information on area-of-origin concerns, please refer to common response 13.

IPF 5.0-4

The law does not require that funding for each program must be equal, as some comments suggest. CALFED agrees that a balanced financing plan with funding from a variety of sources, including state, federal, and user money, will be necessary for successful implementation of the Program. CALFED also agrees that all of the Program elements should progress during implementation of the Program and that implementation of Program actions should be balanced among the Program elements. This does not mean, however, that each Program element must spend the same amount of money.

The cost estimates for Stage 1 are based on the funds that would be necessary to adequately fund each component of the CALFED Program during the first 7 years of implementation. These projected expenditures do not

represent total funding for the life of the Program, and some Program elements involve more capital costs than others. Education, coordination, and research are not nearly as expensive as capital construction projects. A comparison of Program elements in terms of Stage 1 cost estimates is not a valid test for determining balance in the priorities for the Program. It would be irresponsible and inefficient to commit more funding than necessary to a Program element in Stage 1 simply because another program costs more. It cannot be assumed that one Program element is inadequately funded because it has a smaller budget than another program. The Water Transfer Program, for example, involves only administrative costs. It does not make sense to boost the budget for the Water Transfer Program because its budget is not as large as the other Program elements.

CALFED's Financing Plan is not based on artificially funding Program elements to equalize cost estimates and budgets. Instead, the Financing Plan is designed to find ways to adequately fund the Program in order to meet the goals and objectives of the Program while still meeting the Program solution principles that any solution must be affordable, equitable, implementable, and durable; reduce conflicts in the system; and pose no significant redirected impacts. For comments related to funding for storage, please also see IPF 5.7-1.

IPF 5.0-5

The principle that no redirected impacts result from the Program refers to any adverse impacts from projects, not funding decisions. The principle does not mean that anyone who is asked to pay for the Program is "harmed" and therefore should not have to pay under the no redirected impacts principle.

CALFED has adopted a beneficiaries pay principle to allocate the costs of the Program. This principle should prevent those who do not benefit from unfairly being asked to pay. There will be many beneficiaries from the CALFED Program, including water users and the public. A mixture of funding, including taxpayer money for projects with broad public benefits, will be needed for Program implementation. The CALFED agencies believe that this approach is both fair and consistent with the no redirected impacts principle.

One comment also suggests that the cost of participating in the CALFED process (for example, the cost of attending CALFED-related meetings) imposes redirected economic impacts. CALFED disagrees with this comment. These costs are not redirected economic impacts. The principle of no redirected impacts does not imply that any cost a stakeholder incurs during the CALFED process should be compensated.

IPF 5.0-6

As the comment indicates, some market transactions have already occurred in California and a legal framework has been established for them, including protection of the water rights of the selling entity. Therefore, it is likely that water districts and wholesalers already compare, at least to some degree, the cost of potential water purchases with the cost of new storage. Provided that new storage is not publicly subsidized, these comparisons with market signals have the desirable outcome mentioned by the commentor. From the standpoint of public planning, benefit-cost analyses of future storage facilities will be in a position to take into account the cost of water as revealed by market transactions. In addition, a number of modeling efforts have been undertaken to estimate the value of water in current uses (for example, agriculture) both with and without a functioning water market in place (for example, the CVPIA PEIS). It is expected that these modeling efforts can play a role in future planning decisions.

The CALFED *Economic Evaluation of Water Management Alternatives* (EEWMA) report has also addressed this issue. Please refer to that report for more information.

IPF 5.0-7

CALFED agrees with your comment. CALFED has adopted a beneficiaries pay principle to allocating costs, in which beneficiaries of the Program would share in the costs. The CALFED agencies believe that this principle would lead to more efficient choices of projects and less public subsidies. Public funds would be used, combined with user funding, to implement CALFED actions. CALFED has also considered a broad-based user fee to help fund Program actions.

IPF 5.0-8

The authorization of public funds is not undermining the effort to develop a financing plan based on beneficiaries pay, as your comment suggests. CALFED recognizes the need for a mix of funding sources with funding from all beneficiary groups, including state, federal, and user funding. All of these funding sources may not be available concurrently; however, this does not mean that opportunities for funding should not be sought as they arise. Judgment on the success of beneficiaries pay will depend on the final share of costs for Program implementation, not on initial funding sources to date.

IPF 5.0-9

CALFED agrees with the comment, and the suggested change has been made in the document.

5.1 Definitions

IPF 5.1-1

The Financing Plan contains a preliminary identification of classes of beneficiaries for each of the Program elements. Because this is a programmatic document, the Financing Plan does not attempt to define specific beneficiaries of the Program; however, beneficiaries of projects will be identified during Program implementation, when the site-specific planning documents are prepared. For more information on the beneficiaries pay principle, please refer to common response 9.

5.2 Historical Context for State and Federal Cost-Sharing

IPF 5.2-1

Effective cost shares depend on repayment terms (interest rates and the time period for repayment). The effective cost shares for federal project water historically have been low (in the range of 10-15%). The commentor cites even lower rates of repayment for federal irrigation water and requests that the Financing Plan be revised to reflect these rates. The intent of the historical background section of the Financing Plan, however, was to show the relatively low levels of repayment for federal project water,not to cite any specific effective cost shares. For this reason, a range was used rather than a specific number. The CALFED agencies appreciate the information contained in your comment but believe that the purpose was served by the original numbers contained in the June 1999 Financing Plan.

IPF 5.2-2

The CALFED agencies believe that the Financing Plan adequately addresses your concerns, as they relate to

CALFED, in the discussion of user fees and crediting. For more information on the impacts of the CVP, please refer to the CVPIA PEIS.

IPF 5.2-3

CALFED does not agree with this comment. The Financing Plan includes a discussion of the effective local cost shares of the federal and state water projects, which includes the amount of funding contributed by beneficiaries of the projects. The SWP, for example, has effective local cost shares of close to 100% for planning and construction, which highlights the significant amount of funding contributed by locals.

IPF 5.2-4

CALFED agrees that coordinating existing expenditures for other programs that are related to CALFED's goals and objectives is important. Consequently, CALFED staff worked with state and federal agencies to prepare a state and federal cross-cut budget for federal FY 2000/state FY 1999-00, showing funding for projects and programs that relate to CALFED purposes. CALFED also plans to complete a cross-cut budget on an annual basis.

The cross-cut budget will be a valuable tool for coordinating federal- and state-related programs, but it will not be used to go back and make judgments to build a "financial baseline" for the Program. Program implementation will use a forward-looking approach to allocating Program costs. Please refer to common response 9 for more information regarding the beneficiaries pay principle.

IPF 5.2-5

As the comment itself points out, SWP financing and repayment policies (at least for new facilities) "put the effective cost share a lot closer to 100% than the other alternatives examined," which was the main purpose of including this historical material.

This and other stakeholder comments raise technical questions about the precise level of effective cost-sharing for SWP financing, based principally on two considerations: (a) the use of Tidelands Oil and Gas revenues for some historical SWP financing, and (b) the fact that state revenue bonds would be exempt from federal taxation. Particularly regarding the second factor, there are different views concerning precisely how to account for tax-exempt financing.

The main purpose of including this historical material was to place in context cost-sharing alternatives for future financing. Since most water districts also have access to tax-exempt financing, more precise estimates of the influence of tax-exempt financing would not help distinguish among the alternatives being considered—federal financing, state financing, and water district financing (principally through repayment). In addition, the historical financing of SWP facilities with some Tideland Oil and Gas revenues would not bear directly on SWP financing of future facilities.

5.3 Cost Allocation

IPF 5.3-1

The criteria by which the Preferred Program Alternative was selected included the Program solution principles that any solution must be affordable, equitable, implementable, and durable; reduce conflicts in the system; and

pose no significant redirected impacts. All beneficiaries of the CALFED Program will be expected to share in the costs of implementation. CALFED's Water Management Strategy is currently studying different methods to allocate costs, and the solution principles will help to guide this process. In addition, stakeholders will have full opportunities to evaluate the cost-sharing terms for Program participation, as well as the costs and benefits of individual Program components, during the project-level planning phase for each component.

IPF 5.3-2

CALFED's Water Management Strategy is currently studying different methods to allocate costs. However, the specifics for allocating costs will depend on the project being implemented. CALFED will not be conducting a cost-benefit analysis for the 30-year life of the Program as part of the Financing Plan.

IPF 5.3-3

CALFED does not agree with this comment. Adaptive management could lead to the implementation of different projects than those that would be implemented without adaptive management, but this approach leads to more efficient spending and more effective projects. Adaptive management should actually lessen the chances that beneficiaries will not receive benefits, because funding decisions in the future will be based on science, modeling, and knowledge that may not be available at the present time and was not available in the past. While this approach could result in different beneficiaries, that alone would not require supplemental programmatic documentation. Rather, project-specific planning will include an allocation of costs.

Expenditures may not always lead to as much actual benefit as project planners had hoped. This risk is taken anytime a decision is made to implement anything. This problem is not unique to CALFED. There are no plans at this time to develop any mechanism for compensation in these cases. Under SWP and CVP rate setting, these costs are payable by ratepayers. In general, this risk has to be dealt with by any water supplier according to its own laws and policies. The issue is not particularly something that CALFED can or should address.

5.4 Program Benefits/Beneficiaries and Finance Options

IPF 5.4-1

A fundamental philosophy of the CALFED Program is that costs should be paid by the beneficiaries of the Program actions. The CALFED agencies consider this policy equitable, but the beneficiaries pay principle should be applied to CALFED for reasons other than equity and fairness. Beneficiaries paying for public programs encourages them to more carefully review their water and power needs and the costs of proposed programs (including mitigation costs) in relation to the benefits they receive. Such a policy also encourages examination of a fuller range of alternatives, including locally funded measures, to ensure that public funds are spent in the most cost-effective way to meet Program goals.

CALFED rejects the concept of reparations for damages based on past acts because it is not possible to accurately apportion the blame for the degradation of the Delta on any particular user or group. Second, it is destructive to the solution process. To attempt to place blame for past acts will lead to conflict, not to fixing the problems in the Delta. CALFED agencies have determined that solving the problem is their priority—not determining who caused the problem.

Regarding who specifically will benefit from the CALFED Program, please see common response 9. Additionally, some comments specifically question whether farmers, water users, water diverters, the people of California, or

fishermen will benefit from the Program. Clearly, all of the above-mentioned groups could benefit from the CALFED Program. During implementation, specific beneficiaries will be identified for specific projects; those who benefit will be expected to pay. Any user fees should be paid by the beneficiaries of the CALFED Program. The specifics of user fees will also be worked out during Program implementation, although some analysis regarding fees is included in the Financing Plan.

IPF 5.4-2

CALFED will not be measuring the benefits of the entire life of the Program to all beneficiaries, with and without the entire CALFED Program. Rather, this principle would be applied where appropriate to site-specific projects. Measuring benefits will be undertaken during implementation of the Program. Benefits will be estimated separately for different site-specific projects and programs. While future conditions are uncertain, it should be possible to estimate benefits from projects to beneficiaries in some cases, through modeling and studies.

IPF 5.4-3

Not all benefits of the CALFED Program can be easily quantified. Also, the specific benefits of the Program will depend on adaptive management and which projects are chosen during implementation. Finally, with a beneficiaries pay policy, those that benefit from the Program will pay, and an analysis of exactly where these beneficiaries are in the State is not necessary. Classes of beneficiaries are identified for each Program element in the Financing Plan.

5.4.1 Storage

IPF 5.4.1-1

CALFED has stated a policy of seeking public funding for the planning and evaluation of storage projects to ensure a comprehensive and fair comparison of storage options. However, should a storage project proceed to construction, then the public funds used for planning and evaluation will be subject to reimbursement by the project beneficiaries. This financing policy does not foreclose the option of also receiving up-front cost sharing by potential project beneficiaries.

The costs for construction of any storage facilities will be paid for by the project beneficiaries, which could include public, agricultural, and urban water users and hydropower users. When storage projects move out of the initial planning phase and into site-specific planning and design, beneficiaries will be identified and cost shares will be established to pay for the project, including construction, mitigation, and operations and maintenance (O&M). Public funds used to pay for the site-specific planning, design, and construction of specific projects will be reimbursed by project beneficiaries, which will be identified during the site-specific planning phase of construction. In addition, site-specific projects will be subject to further environmental documentation under NEPA/CEQA, and all stakeholders and members of the public will have full opportunities to evaluate the funding for these projects.

More information on the options for financing storage projects is included in the Financing Plan.

IPF 5.4.1-2

Beneficiaries of storage projects cannot be identified until specific projects are identified and studied. Storage can result in multiple benefits, including water supply, flood control, recreation, and environmental benefits from

water dedicated to the environment. All of these benefits vary, depending on the specific site that is chosen and how the project is operated. Until this kind of information becomes available during implementation, CALFED cannot identify specific beneficiaries of new storage. However, general classes of beneficiaries have been identified in the Financing Plan, and financing principles and strategies are being developed to guide funding and cost sharing of specific projects in the future. In addition, CALFED's Water Management Strategy is currently studying different methods to allocate costs, which will further develop funding strategies for storage projects.

IPF 5.4.1-3

CALFED agrees that financing will have a bearing on which projects will ultimately be chosen. CALFED also agrees with the statement that until a plan for the operation of new facilities is known, it is not possible to determine beneficiaries for a storage financing strategy based on "beneficiaries pay." CALFED disagrees, however, that financing for storage projects, including clear operational assumptions, are necessary during the initial programmatic planning stage. When specific sites are chosen and site-specific planning begins, then it is appropriate to develop a plan for operations and identify beneficiaries.

The Water Management Strategy is evaluating operational and financial strategies for any new storage. Specific operations of new facilities are not discussed in the Programmatic EIS/EIR but will be developed during implementation, when more information regarding site-specific projects is known. The financial principles that will be included in the Financing Plan will also help to guide funding decisions during Program implementation.

IPF 5.4.1-4

CALFED anticipates that significant additional investments in water use efficiency will be necessary during Stage 1 and beyond to address water supply demands caused by a rapidly increasing population and increased environmental water needs. The Water Management Strategy will study all tools of water management, including water conservation and recycling. Storage will not be developed and constructed instead of conservation and recycling but may be developed, together with these tools, if adequate water supply reliability is not provided through conservation and recycling alone.

The EEWMA report (available on the CALFED web page) also provides analysis of water management options, including both water use efficiency measures and storage.

In addition, CALFED has adopted a beneficiaries pay approach to allocating the costs of the Program. Beneficiaries paying for public programs encourages them to more carefully review their water and power needs and the costs of proposed programs (including mitigation costs) in relation to the benefits they receive. Such a policy also encourages examination of a fuller range of alternatives, including locally funded measures, to ensure that public funds are spent in the most cost-effective way to meet Program goals.

IPF 5.4.1-5

CALFED is not committing to funding any specific projects during the programmatic phase of the document. Specifics for financing site-specific projects will be developed during implementation of the Program. In addition, the Integrated Storage Investigation and the Water Management Strategy are evaluating storage in the CALFED Program, including groundwater storage.

IPF 5.4.1-6

CALFED has adopted a beneficiaries pay approach to allocating the costs of the Program. Beneficiaries paying for public programs encourages them to more carefully review their water and power needs and the costs of proposed programs (including mitigation costs) in relation to the benefits they receive. Such a policy also encourages examination of a fuller range of alternatives, including locally funded measures, to ensure that public funds are spent in the most cost-effective way to meet Program goals. The requirement that users pay for project water has been a long-standing principle of both federal and state water supply programs and projects; therefore, the scenario the comment refers to is not a realistic one.

IPF 5.4.1-7

The CALFED agencies believe that both new storage and water use efficiency measures should be cost effective. The water supply reliability benefits from both storage and water use efficiency measures could benefit the same groups of beneficiaries. To specifically mention that water use efficiency measures must be cost effective without making the same reference to new storage, as suggested by this comment, would be inconsistent.

IPF 5.4.1-8

As described in the Financing Plan, the beneficiaries of new storage facilities will depend on the design and operation of each facility and the allocation of the water supply. CALFED agrees with your comment, however, that both hydropower operators and commercial fishermen could potentially benefit from storage facilities. Commercial fishermen are already mentioned as beneficiaries, together with recreational users, where fisheries were used as an example. Hydropower was cited in the June 1999 Financing Plan as a potential benefit of storage. Hydropower operators have been added to the list of possible beneficiaries in the Financing Plan in Section 5.4-1, "Storage."

IPF 5.4.1-9

The use of a broad-based user fee to fund the portion of flows from storage facilities dedicated to the environment has not been proposed by the CALFED Program. The details surrounding the use of such fees still need to be developed; if user fees are proposed as a funding source for ecosystem water storage, more detail would be provided to support such a fee. CALFED does not necessarily agree that the establishment of user fees is a technical issue that requires analysis in the EIS/EIR.

IPF 5.4.1-10

CALFED agrees that costs would be allocated to projects based on use. Allocating costs for storage will depend on many factors, including the geographic location and operation of chosen facilities. Whether the primary beneficiaries of the new storage will be CVP or SWP users may influence how costs are shared, based on existing law. CALFED may also opt to use a mix of federal and state authorities for storage facilities but seek new legislation to specify levels of cost sharing for specific facilities.

IPF 5.4.1-11

CALFED recommends that O&M costs for irrigation, municipal and industrial, and hydropower be paid 100% by users. O&M costs for flows dedicated to the environment may or may not be funded by users, depending on whether the flows are part of the mitigation for the project.

The CVPIA involves dedication of water and water user payments to the Restoration Fund. It also involves cost sharing by the federal government and the state. CALFED agrees with this policy, and similar principles will be part of the CALFED solution. Public funds will be part of the mix.

IPF 5.4.1-12

CALFED has not adopted a "share the risk" policy for funding planning for storage. More information regarding this policy would need to be provided if CALFED proposes adoption of this principle. If adopted, the equity of such a principle to all beneficiary groups, including water users, would be included in the proposal.

IPF 5.4.1-13

General financing principles and strategies for surface water and groundwater storage are included in the Financing Plan. This comment points out a possible inconsistency that will need to be evaluated further, when specific financing proposals are made during implementation. CALFED agrees that if a decision is made to use different funding principles for surface and groundwater storage, the justification and reason for the decision should be explained.

IPF 5.4.1-14

CALFED agrees that this could be clarified further. The costs for construction of any storage facilities will be paid for by the project beneficiaries, which could include the public, agricultural and urban water users, and hydropower users. When storage projects move out of the initial planning phase and into site-specific planning and design, beneficiaries will be identified and cost shares will be established to pay for the project, including construction, mitigation, and O&M costs. Public funds used to pay for the site-specific planning, design, and construction for specific projects will be reimbursed by project beneficiaries, which will be identified during the site-specific planning phase of construction. In addition, site-specific projects will be subject to further environmental documentation under NEPA/CEQA, and all stakeholders and members of the public will have full opportunities to evaluate the funding for these projects. For more information on the financing of storage projects, please refer to Section 5.4.1 in the Implementation Plan.

IPF 5.4.1-15

The details surrounding the need for replacement power due to increased water supplies in order to meet downstream water obligations have not been included in the Financing Plan. This comment will be taken into consideration when the specifics for this issue are developed during implementation by site-specific planning. CALFED will not seek to change any existing regulations regarding water rights and mitigation with respect to power replacement costs.

IPF 5.4.1-16

CALFED agrees that it is difficult to evaluate specific cost-sharing scenarios for storage until a plan for the operation of new facilities is known, because it is not possible to determine beneficiaries for a financing strategy based on "beneficiaries pay." When specific sites are chosen and site-specific planning begins, it is appropriate to develop a plan for operations and identify beneficiaries. However, this does not mean that general principles and strategies cannot be developed prior to site-specific planning and design. The Financing Plan includes financing principles that will serve as the foundation for more detailed cost sharing and financing during implementation of the Program.

IPF 5.4.1-17

CALFED is proposing many water management options, including water use efficiency measures, water transfers, and possibly new storage facilities. CALFED has adopted a "beneficiaries pay" approach to allocating the costs of the Program. Beneficiaries paying for public programs encourages them to more carefully review their water and power needs and the costs of proposed programs (including mitigation costs) in relation to the benefits they receive. Such a policy also encourages examination of a fuller range of alternatives, including locally funded measures, to ensure that public funds are spent in the most cost-effective way in order to meet Program goals. CALFED does not view this as posing a "stranded assets" risk as is implied in the comment. Rather, this policy should make beneficiaries evaluate the costs of projects before they are built.

However, if the commentor means to say that stranded assets occur when any water conveyance or delivery systems are not able to be fully utilized for their original purposes, this could represent a stranding of sorts. Under SWP and CVP rate setting, these costs are payable by ratepayers. In general, stranded assets seem to be a condition that must be dealt with by any water supplier according to its own laws and policies. It is not particularly something that CALFED can or should address.

IPF 5.4.1-18

Your comment ignores the time value of water. At certain times, stored water can be released such that the increased flows would benefit the ecosystem. For more information on funding for storage, please refer to response IPF 5.4.1-1.

5.4.2 Conveyance

IPF 5.4.2-1

The SWP and CVP may lose flexibility because of new laws and regulations, as well as increased demand for water. However, the loss of flexibility due to new laws and regulations (for example, the Endangered Species Act [ESA]) is not necessarily a cost that the public should pay for. Water rights are subject to regulation, and project water rights (CVP and SWP) are junior to many other water rights.

The CALFED Program, including the Environmental Water Account (EWA), should provide more, not less, flexibility measured with respect to the without-project condition. Presumably, the CVP and SWP would need to be operated to comply with environmental laws in the absence of the CALFED Program. Because these costs would occur with or without CALFED, it is not necessary to include the costs as attributable to CALFED.

Assuming that the EWA provides more flexibility compared with other solutions, it can be viewed that the EWA would be taken voluntarily by water contractors to lessen the adverse impacts on them. If so, there is an argument that water contractors should pay for EWA water up to the point needed to meet legal requirements. If there are additional benefits beyond that point for environmental uses, there is a rationale for public funding for that increment. This point where the additional benefits start accruing may be difficult to determine, which provides a rationale for using some water contractor and some public funding.

Financing and funding decisions for an EWA will be made during implementation of the Program.

IPF 5.4.2-2

CALFED will consider your comment. If CALFED decides to propose such a fee, more detail will be provided regarding how such a fee might be structured. This and other fees may be considered after the ROD, during implementation of the Program.

IPF 5.4.2-3

Similar to storage, conveyance improvements could provide water supply reliability, water quality, flood control, and ecosystem benefits. The rationale for the possible use of user fees to help fund ecosystem improvements would be the increased flexibility of the system and the reduced possibility of regulatory actions in the future (such as ESA listings). The exporters that benefit from the conveyance improvements would be the water users who gain from this increased flexibility; therefore, these users would be the ones expected to pay into the user fee. In all likelihood, a mix of funding, including federal, state, and user funding, will be necessary to fund conveyance improvements. More detail on financing principles for conveyance has been included in the Financing Plan.

5.4.3 · CALFED Levee Program

IPF 5.4.3-1

The City of West Sacramento claims that they do not benefit from the Levee System Integrity Program (Levee Program) and asserts that they should not have to pay for levee strengthening in the Delta. The Financing Plan outlines general beneficiaries of all of the Program elements, including the Levee Program, but specific beneficiaries will be identified during implementation of the Program. Because CALFED has adopted a "beneficiaries pay" principle, the City of West Sacramento should not be expected to pay for aspects of the Program for which they cannot be identified as beneficiaries.

IPF 5.4.3-2

CALFED has not performed a study to quantify potential supply reliability and water quality benefits from the levee protection program. While it may be true that it is difficult to measure and quantify benefits from the Levee Program to water users, this does not mean that water users will definitely not have to pay. There are identifiable benefits to water users from the Levee Program. The specifics for financing the Levee Program have not been finalized; however, general principles on cost-sharing options for the Levee Program have been provided in the Financing Plan.

In addition, CALFED is proposing a continuation of the Special Improvement Projects as an element of the Levee System Integrity Program Plan. Water quality benefits are identified as one of the primary purposes of this element, along with protecting recreation, navigation, and fish and wildlife habitat and providing other benefits.

IPF 5.4.3-3

It is reasonable that water users should have some say in project implementation if they are asked to pay for it. In fact, the Levee Program is proposing a Levee Implementation Group (LIG), as established by CALFED, that will develop a priority list of Special Improvement Projects consistent with the CALFED objectives and the primary purpose of the Special Flood Control Projects authority. The LIG will be comprised of CALFED agencies and stakeholders to provide a forum for stakeholder and science review, and to coordinate Levee Program actions with all other CALFED actions.

IPF 5.4.3-4

The commentor argues that the long-term impacts to exporters could potentially be mitigated in a less expensive manner than current levee maintenance costs. This may be true, but levee maintenance is needed for many interrelated problems, and CALFED cannot address problems in one problem area without addressing related problems in the other areas. Water users will not be asked to fund 100% of the costs of the Levee Program; but it is reasonable to consider water user funding to pay for a portion of the costs, based on the identifiable water supply reliability and water quality benefits they receive.

The specifics for financing the Levee Program, including the possible application of user fees, have not been finalized; however, general principles on cost-sharing options for the Levee Program have been provided in the Financing Plan.

IPF 5.4.3-5

The impacts of Delta island subsidence are being addressed by CALFED through the Delta Levee Subsidence Control Plan (Subsidence Control). The goals of the Subsidence Control element are to reduce or eliminate the risk to levee integrity from subsidence and assist in the coordination of subsidence-related linkages with other CALFED programs. The costs associated with this element would be the added costs to levee protection from subsidence. This element is being developed and evaluated at a programmatic level.

5.4.4 CALFED Water Use Efficiency Program

IPF 5.4.4-1

The comment suggests that Water Use Efficiency measures resulting in water dedicated to the environment may decrease supply to downstream users. CALFED disagrees with this comment. Any water from Water Use Efficiency measures dedicated to the environment would be reclaimed water that would be added to the system. While downstream users would not directly benefit from the use of this water, they would benefit from the increased regulatory flexibility that a healthy ecosystem allows.

The CVPIA involves dedication of water and water user payments to the Restoration Fund. It also involves cost sharing by the federal government and the state. CALFED agrees with this policy, and similar principles will be part of the CALFED solution. The CALFED agencies believe that a mix of public money and user funding will be needed to solve these difficult problems.

IPF 5.4.4-2

At least some of the benefits of conservation are private (for example, the savings in water, delivery, O&M, and treatment) and are to the conserving party. If the comment is arguing that since they are using less water, there is more water for everyone else, this does not necessarily guarantee any public benefit because the water could be used by other water users.

CALFED should not need to provide incentives to urban water agencies to fund measures that are locally cost effective. The benefits would outweigh the costs and local agencies would benefit from the measures. If the recycling or conservation action is not cost effective at the local level and the benefits are largely to the environment, then the urban agency would not be expected to fund the measure. Furthermore, if the measure is not cost effective at the state level, then other more cost-effective means of reducing demand or increasing

supply would be taken. The primary case in which public funding should be used for Water Use Efficiency actions are projects where the actions create public benefits, but at the expense of local water users. In such cases, the public would not realize the benefits were it not for the public funds needed to make the project worthwhile to the conserving party. In addition, public funding may be appropriate for some water use efficiency actions, due to the public benefits of demonstration projects or new technologies.

IPF 5.4.4-3

The Water Use Efficiency Program will be working with many different stakeholders, including WateReuse, on issues related to the Water Use Efficiency Program. The specific beneficiaries from water use efficiency actions implemented by CALFED will be determined during site-specific planning of the Program, because the exact cost shares to specific beneficiaries will depend on the location and nature of the project. General cost-sharing scenarios for the Water Use Efficiency Program, as well as the other Program elements, have been included in the Financing Plan.

IPF 5.4.4-4

CALFED agrees with the commentor that adequate funding will be needed early for water conservation actions. Adequate funding will be needed for all of the Program elements, including water use efficiency. All of the Program elements will require planning, execution, and evaluation under adaptive management; and CALFED will need to use a balanced approach when funding actions during implementation of the Program.

Proposition 13, passed by the California voters in March 2000, will provide some early funding for the Water Use Efficiency Program.

IPF 5.4.4-5

CALFED agrees with the comment that simply subsidizing conservation may not result in more water for the environment but rather a transfer of water to other project contractors. The idea that funding water use efficiency projects in southern California could be viewed as a market transaction, essentially a trade for water dedicated to the EWA, has not been explored. Financing decisions on the EWA likely will occur during implementation of the Program.

IPF 5.4.4-6

CALFED agrees with your comment that conservation may not result in more water for the environment unless measures are adopted to protect the water. The Financing Plan considers an incentive where water use efficiency projects that entail water being left in-stream, dedicated to the environment, and legally protected would receive public funding. Finalizing decisions on Water Use Efficiency measures will likely occur during implementation of the Program.

IPF 5.4.4-7

CALFED agrees with the comment, which is why CALFED has included conservation and recycling as priorities for Program funding during implementation.

IPF 5.4.4-8

CALFED does not agree with your comment. The federal Clean Water Act (CWA) provides for the creation of a State Revolving Fund (SRF) Loan Program capitalized in part by federal funds from the EPA. The CWA authorizes loan funding for construction of wastewater treatment and water recycling facilities, for the implementation of nonpoint source and storm drainage pollution control management programs, and for the development and implementation of estuary conservation and management programs.

IPF 5.4.4-9

Conservation and groundwater conjunctive use projects are part of the CALFED Program. Proposition 13, passed by the voters in March 2000, will provide some funding for both conservation and groundwater projects. In addition, CALFED remains committed to coordinating efforts with existing state and federal conservation programs to ensure efficient solutions. The cross-cut budget, which shows funding of existing federal and state programs, as well as CALFED funding, will be built on an annual basis throughout implementation of the Program.

IPF 5.4.4-10

CALFED has changed the paragraph as follows:

> The ultimate goal of the CALFED Water Use Efficiency Program is to develop a set of programs and assurances that contributes to CALFED goals and objectives, has broad stakeholder acceptance, fosters efficient water use, and helps support a sustainable economy and ecosystem. To achieve these fundamental goals, the Water Use Efficiency Program has the following objectives:
>
> - Reduce existing irrecoverable losses.
> - Achieve multiple benefits.
> - Preserve local flexibility.
> - Use incentive-based actions over regulatory actions.
> - Build on existing water use efficiency programs.
> - Provide assurance of high water use efficiency.

5.4.5 CALFED Water Transfer Program

IPF 5.4.5-1

Streamlining the water transfer process is of general benefit to the public. At least some water transfers would be for ecosystem purposes, and the costs of the program are relatively small with respect to the other CALFED Program elements. Therefore, CALFED proposes to fund the Water Transfer Program with public funds.

IPF 5.4.5-2

CALFED does not agree with this comment. Agricultural agencies that sell water will do so as willing sellers. Presumably, they would not sell water unless it is in their best interest to do so. CALFED's Water Transfer Program intends to streamline the process for water transfers in the state, which would lead to a better market for transfers. All buyers and sellers of water will benefit from the Water Transfer Program, including agricultural

water users. Any agricultural agencies that decide to sell water must be benefitting from the transfer, or they would not choose to sell the water.

5.4.6 CALFED Water Quality Program

IPF 5.4.6-1

The Financing Plan will serve as the foundation for addressing funding decisions during implementation of the life of the Program, not just Stage 1. Some of the actions proposed in Stage 1 do provide primarily ecosystem benefits. In these cases, benefits to water users would not be based on measuring avoided treatment costs. Some actions in Stage 1 (and presumably some actions beyond Stage 1) do provide drinking water quality benefits, however, and these projects may be subject to a benefits analysis based on the methodology questioned in your comment.

IPF 5.4.6-2

Using 100% public funding for broad research, studies, and monitoring may be considered as an option. A mixture of public funding and broad-based fees may also be considered. General principles on funding options for the Water Quality Program have been provided in the Financing Plan. The specifics on financing individual projects will be determined after the ROD, during implementation of the Program.

IPF 5.4.6-3

The approach for measuring benefits mentioned in the comment may be appropriate for some drinking water quality actions, which is why it was mentioned in the Financing Plan as a possible means of measuring willingness to pay. Not all water quality benefits are quantifiable, however; in some cases, a broad-based user fee may be appropriate when there are broad public benefits.

IPF 5.4.6-4

The Financing Plan mentions that water users are beneficiaries of the Water Quality Program. While it may be true that many of the actions for Stage 1 primarily benefit the ecosystem, water users do benefit from the Water Quality Program in Stage 1, and they will also benefit beyond Stage 1. The Financing Plan needs to be the foundation for financing the life of the Program, not just Stage 1. Because water users will benefit from the Water Quality Program, 100% public funding will not be considered as an option. General principles on funding options for the Water Quality Program have been provided in the Financing Plan. The specifics on financing individual projects will be determined after the ROD or during implementation of the Program.

IPF 5.4.6-5

CALFED does not agree with this comment. CALFED has made drinking water quality a primary concern of the Water Quality Program and will fund many studies in the early stages of implementation regarding drinking water quality and bromide. One example is the study to determine the sources and magnitudes of loading for many drinking water constituents, including bromide. The "Drinking Water" chapter in the Water Quality Program Plan concludes that organic carbon might be subject to control by drainage treatment if the technology can be proven and if it can be made economically feasible. This is why CALFED proposes pilot projects for drainage treatment as part of the Water Quality Program in Stage 1.

Section 2.1 in the Programmatic EIS/EIR mentions the actions CALFED will take to reduce salinity levels. These actions include reducing salt sources in urban and industrial wastewater to protect drinking and agricultural water supplies; and facilitating development of successful water recycling, source water blending, and groundwater storage programs. Salinity in the Delta would be controlled by limiting salt loadings from its tributaries and through managing sea water intrusion by such means as using storage capability to maintain Delta outflow and to adjust the timing of outflow and by managing exports.

CALFED does not agree that agricultural and urban water users do not benefit from the Water Quality Program. The benefits identified above, as well as other possible benefits, have been discussed further in the Financing Plan.

IPF 5.4.6-6

CALFED agrees that some Ecosystem Restoration Program actions may affect drinking water quality, but this issue needs further study. CALFED takes this issue seriously, which is why potential impacts will be researched during Stage 1.

In addition, the benefits or impacts of drinking water quality must be compared to the No Action Alternative. Compared to the No Action Alternative, the Preferred Program Alternative provides significant improvements in terms of both its water quality and ecosystem health effects. Under the No Action Alternative, each of the four areas of critical concern—ecosystem quality, water quality, levee system integrity and water supply reliability—would continue to deteriorate, with resultant potentially significant adverse impacts on fisheries, endangered species, and species of concern and their habitats. In addition, the quality of both in-Delta and export water likely would decline under the No Action Alternative. This decline in water quality could result in potentially significant adverse impacts on fisheries, ecosystem health, and drinking water quality. With the continued decline of the ecosystem, interruptions of water deliveries also likely would occur because of constraints on export pumping to protect threatened and endangered species. Finally, under the No Action Alternative, the Delta levees would continue to be vulnerable to failure because of limited maintenance in some locations and the lack of a comprehensive plan for effective emergency response.

IPF 5.4.6-7

CALFED does not agree with this statement. First, the costs to meet regulatory requirements are outside the scope of the CALFED Program, because CALFED is not a regulatory agency and regulations would occur with or without the CALFED Program. Furthermore, many CALFED actions, including implementation of the Ecosystem Restoration Program and other Program elements including the EWA, would increase flexibility and would most likely decrease the likelihood of future regulation. Second, the "beneficiaries pay" principle does not preclude cost sharing from water users who benefit from reduced regulations.

The comment also claims that the "beneficiaries pay" principle could cause significant redirected impacts related to drinking water quality. For more information on the no redirected impacts principle as it relates to financing, please refer to response IPF 5.0-5. For information on bromide and total organic carbon related to financing, please refer to response IPF 5.4.6-5.

IPF 5.4.6-8

While studies on salinity and plant types are not proposed for funding in Stage 1, CALFED will fund other actions regarding salinity. Section 2.1 in the Programmatic EIS/EIR mentions the actions CALFED will take to reduce salinity levels. These actions include reducing salt sources in urban and industrial wastewater to protect drinking

and agricultural water supplies; and facilitating development of successful water recycling, source water blending, and groundwater storage programs. Salinity in the Delta would be controlled by limiting salt loadings from its tributaries and through managing sea water intrusion by such means as using storage capability to maintain Delta outflow and to adjust the timing of outflow and by managing exports.

IPF 5.4.6-9

CALFED will not assess fees to collect for past actions, such as past applications of pesticides. However, any current or future uses of pesticides that are identified as potentially damaging to the ecosystem could be considered polluters under the "polluters pay" scenario. Cost sharing from polluters could be sought to fund ecosystem improvements. This action could prevent more stringent future regulations on the applications of such pesticides; therefore, the applicators would benefit from these ecosystem actions.

IPF 5.4.6-10

CALFED will seek funding for the Water Quality Program from a variety of sources, including federal, state, and user funding. Please see response IPF 5.5-3 for more information on CALFED Program funding.

5.4.7 CALFED Watershed Program

IPF 5.4.7-1

CALFED has chosen a benefits-based approach to allocating the costs of the Program. To the extent that relationships can be established between downstream users benefitting from watershed actions, cost sharing and coordination among downstream users and the watershed groups above the dams will be pursued. During implementation, the Watershed Program expects to strengthen the partnerships and relationships among all beneficiaries of the watersheds, including the public, local watershed organizations, and government organizations. Funding sources for watershed actions will be better coordinated and easier to access. In addition, relationships between watershed actions and beneficiaries will be identified and, to the extent possible, quantified. The Watershed Program will be better able to establish these relationships during implementation of the Program, when more information about specific projects becomes available through planning, research, and adaptive management.

While the "New York City-type funding plan" that some stakeholders have cited is a good example of cooperation among cities/counties and upstream watershed programs, CALFED does not agree that its applicability to the CALFED Program, in terms of financing, is clear and direct. New York City obtains nearly all of its water from three watersheds that flow directly into the City. Whereas in New York City there is a clear connection between a specific watershed (source) and user (New York City), the case for Sierra Nevada watersheds and water diverters from the Delta is less clear.

The possibility of using a broad-based water user fee to help fund the Watershed Program is discussed in the Financing Plan, which would provide user funding for watershed actions. Additionally, fees on water deliveries and hydropower users are identified as possible sources of funding during implementation. If a relationship between hydropower use and watershed management actions can be established, fees on hydropower users will be considered during Program implementation.

It is clear that there are multiple beneficiaries from the Watershed Program; all of them will be asked to pay provided that benefits from the Program can be demonstrated. While benefits may not always be quantifiable,

it is possible to link benefits to beneficiaries and to allocate costs based on this principle. Identification and linking of benefits to beneficiaries from all of the Program elements, including the Watershed Program, will be undertaken during implementation.

IPF 5.4.7-2

Based on the "beneficiaries pay" policy, CALFED will establish a link between the benefits of the Program and the beneficiaries; this information will be used when developing cost shares for specific projects during implementation. While some may consider it ideal to establish cost shares proportional to quantified benefits, for many projects in the CALFED Program (including the Watershed Program), the benefits are not easily quantified. Furthermore, a "beneficiaries pay" policy does not obligate CALFED to establish fees based on quantified benefits. This approach does not preclude CALFED from assessing fees to beneficiaries, as long as fees are based on a demonstration and linkage of benefits.

A general discussion of user fees, including possible fees on CVP and SWP users, is included in the Financing Plan.

IPF 5.4.7-3

The Financing Plan states that Delta exporters may benefit from the Watershed Program. If CALFED cannot identify benefits of the Watershed Program to Delta exporters, they will not be asked to pay for watershed actions. The comment that it is impossible to quantify and separate water quality and supply reliability benefits in the Watershed Program from other contributing factors is not a rationale for 100% public funding. Although a link must be shown between Delta water exporters and Watershed Program benefits, this does not require CALFED to quantify explicit benefits before requiring cost sharing from water users.

IPF 5.4.7-4

Cost-sharing scenarios are included in the Financing Plan for all of the Program elements, including the Watershed Program. However, specific details surrounding cost sharing will need to be determined during implementation.

IPF 5.4.7-5

CALFED agrees with the commentor that adequate funding will be needed for watershed actions. CALFED also agrees that deferred maintenance of the watershed would require additional funding in future years. Adequate funding will be needed for all of the Program elements, including the Watershed Program. Funding for the CALFED Program, including the Watershed Program, will come from both federal and state sources as well as from users. All of the Program elements will require planning, execution, and evaluation under adaptive management. CALFED will need to use a balanced approach when funding actions during implementation of the Program.

Proposition 13, approved by the voters in March 2000, will provide some funding for watershed activities in the state.

IPF 5.4.7-6

CALFED agrees that some public funding will be needed for implementation of the Watershed Program. However, the specific actions in the Watershed Program will be determined by local communities, working together with CALFED. CALFED cannot guarantee that any of the items that the commentor requests to be

publicly funded by the Watershed Program will be actions that will receive priority funding during implementation.

IPF 5.4.7-7

CALFED does not agree with this comment. Delta farmers and users of Delta exports may also benefit from the Watershed Program from reduced flood risk, increased water supply reliability, and improved water quality. More information regarding benefits of the Watershed Program may be found in Chapter 5 in the Implementation Plan.

IPF 5.4.7-8

The Watershed Program is based at the local level. As such, one of the main components of the Watershed Program is to provide financial assistance to community-based watershed programs. Funding could be used for many different activities, including pollution prevention and water conservation, which were mentioned in this comment.

IPF 5.4.7-9

CALFED does not agree with this comment. In fact, integration with other Program elements is called out as one of the primary elements of the Watershed Program. The specific actions in the Watershed Program will be determined by local communities, working together with CALFED. Cost estimates for the Watershed Program could change based on these priorities. For more information on Watershed Program cost estimates, please see response WSH 3.5-4.

5.4.8 CALFED Ecosystem Restoration Program

IPF 5.4.8-1

Ecosystem quality is one of the primary objectives of the CALFED Program. CALFED agrees that adequate funding, including state and federal money, is necessary to successfully meet all of the four primary objectives (ecosystem quality, water supply reliability, water quality, and levee system integrity) of the Program.

Significant public funds already have been allocated to Bay-Delta ecosystem restoration through state Proposition 204 funds and through federal agency budget appropriations. The Financing Plan also discusses the possibility of proposing user fees to provide a reliable source of funding for ecosystem actions.

For information regarding funding for recreation, please refer to response IA-7.7.11-3.

IPF 5.4.8-2

To the extent that dredged materials are reused by the Ecosystem Restoration or Levee Programs, Bay Area dredgers could benefit from decreased disposal costs. In cases as described in your comment, CALFED agrees that Bay Area dredgers should share in the costs of projects where dredged materials are used.

IPF 5.4.8-3

CALFED does not agree with this comment. CALFED agrees that conversion of Delta land use from agriculture to wetlands and marshes under the Ecosystem Restoration Program could result in increased water use and

potential negative impacts on agricultural and urban water supply reliability. However, these potential consequences may be reduced or eliminated by several strategies included in the Preferred Program Alternative. Implementation of an EWA may allow for more efficient use of water for environmental purposes and decrease the conflict in uses of Bay-Delta water supplies. Optimizing the use of alternative water management tools, including water use efficiency measures, water recycling, and water transfers, may improve the availability and economic utility of water supplies. Implementing water quality improvement actions may enhance the quality of source water supplies, thereby providing additional operational flexibility to meet water supply reliability and quality goals. Conveyance improvements may also increase the flexibility of water project operations and improve water supply reliability. Finally, completing an Integrated Storage Investigation will help to determine the proper role of storage in the context of a comprehensive water management framework. New storage could provide improved water management capability and enhanced water supply reliability.

The cumulative beneficial effect of all actions under the Preferred Program Alternative, including the Water Quality Program, Water Use Efficiency Program, Water Transfer Program, conveyance improvements, and potential new water storage facilities, is expected to significantly outweigh this potential loss of water supply, resulting in no potentially significant adverse impacts.

IPF 5.4.8-4

The purpose of the restoration coordination program is to allow implementation of ecosystem restoration actions while the programmatic environmental documents, including the long-term ecosystem restoration plan, are being revised and finalized. To date, funding decisions have not been made solely on geographic criteria (for example, each region receives a certain percentage of the funds available.) Projects are funded based on the criteria outlined in the proposal solicitation package, which includes the ability to show the connection between the project and the goals of the Ecosystem Restoration Program. Generally, those projects that most closely meet the outlined criteria and goals are recommended for funding.

5.5 Funding Sources and Finance Mechanisms

IPF 5.5-1

Some commentors are concerned that CALFED will be subsidizing water development projects for agricultural and urban water users. During implementation of the Program, taxpayer dollars will not be used to fund projects where the sole beneficiaries are agricultural or urban water users. CALFED has chosen a benefits-based approach to allocate the costs of the Program. Simply put, those who benefit from the Program will help pay for it. Most projects that will be implemented by the CALFED agencies, however, will have multiple beneficiaries, including the public. This means that a combination of both public and user funds will be needed.

The public will be expected to help pay for the Ecosystem Restoration Program actions, for example, since the public largely benefits from these actions. Significant public funds have already been allocated to Bay-Delta ecosystem restoration through state Proposition 204 funds and through federal agency budget appropriations. Public funds may also be used for the planning and evaluation of storage projects to ensure a comprehensive and fair comparison of storage options. However, should a storage project proceed to construction, then the public funds used for planning and evaluation will be reimbursed by the project beneficiaries.

IPF 5.5-2

CALFED agrees with the statement that many projects will be implemented by the CALFED agencies with public benefits, and that the CALFED Program elements are interrelated. This does not mean, however, that the Program will be funded entirely with public funds. The inter-relationship among CALFED Program elements is not a rationale for 100% public funding. It has long been the practice of federal and state agencies to allocate the costs of multi-purpose water projects among beneficiaries. CALFED expects that many beneficiaries of the Program, including water users and all groups of beneficiaries, will be asked to pay. For more information on the "beneficiaries pay" principle, please refer to common response 9.

IFP 5.5-3

CALFED recognizes the need for a balanced and reliable funding package for the life of the Program. Unfortunately, not all of the available funding sources are reliable, especially federal and state appropriations. In addition to seeking funding from these sources, the Financing Plan raises the possibility of implementing user fees as a source of funding for the Program. One of the advantages of a broad-based user fee, for example, would be the reliability of this funding once the fee is in place. State bonds are also reliable sources of funding. Proposition 13, approved by the voters in March 2000, also will provide reliable funding for the CALFED Program.

It is important to have a balanced funding package, as well as a reliable one. One goal of the Financing Plan is to develop principles for funding the Program that are balanced and fair, as well as sufficient for successful implementation of the Program. CALFED will seek funding from a variety of sources, including state and federal appropriations and general obligation bonds. Other funding sources considered in the Implementation Plan include water and power revenue bonds; user (water district) funding; and user fees, including a broad-based user fee, based on diversions.

CALFED will not target one beneficiary group because they have "deep pockets," as some comments suggest. Some comments suggest that the Program should be funded entirely with public funding, while others suggest that the Program should include no public funding and should seek all of the funding from water users. CALFED rejects both of these proposals because neither one is balanced or consistent with the "beneficiaries pay" principle. There will be multiple beneficiaries from the CALFED Program, including both the public and water users; therefore, both groups of beneficiaries will be expected to contribute funding during implementation of the Program.

At least one comment references concerns with a Watershed Program example. For information regarding the Watershed Program, please see response WSH 3.5-1.

IPF 5.5-4

CALFED has adopted a "beneficiaries pay" approach to allocating costs of the Program. This principle will guide the Program during implementation, when beneficiaries are identified for site-specific projects. CALFED expects that all Californians, including those living in the northern parts of the state, will benefit from aspects of the CALFED Program, such as ecosystem restoration projects that will create broad public benefits. State funding, as well as federal funding and possibly broad-based user fees from users, will be used to fund these kinds of projects. Where possible, specific beneficiaries will be identified during implementation and will share in the costs of site-specific projects. This might include groups of beneficiaries from all regions of the state, including northern California.

IPF 5.5-5

Some comments have suggested that using state and federal money for Program funding would create new subsidies and encourage inefficient water use. CALFED disagrees with this statement. CALFED has adopted a "beneficiaries pay" approach to funding the Program; therefore, public funding would be used for projects with broad public benefits. This principle should prevent inefficient water use, because beneficiaries paying for public programs encourages them to more carefully review their water and power needs and the costs of proposed programs (including mitigation costs) in relation to the benefits they receive. Such a policy also encourages examination of a fuller range of alternatives, including locally funded measures, to ensure that public funds are spent in the most cost-effective way to in order to meet Program goals.

Other comments suggest that the Financing Plan is in violation of NEPA/CEQA because the law requires CALFED to provide specifics surrounding financing for the Program prior to its implementation. This statement is inaccurate. NEPA/CEQA requires that alternatives be evaluated based on the potentially significant adverse environmental impacts that may result from implementation of the Program. Financing mechanisms, in and of themselves, do not cause environmental damages; therefore, CALFED is not required to evaluate specific financing mechanisms prior to the implementation phase of the Program. Further, the Financing Plan does evaluate the advantages and disadvantages of different funding sources, and principles that are established in the Financing Plan will serve as the foundation for funding decisions during Program implementation. These general principles are outlined in the Financing Plan.

Specific financing proposals, based on the guidelines of the Financing Plan, will be made during Program implementation. Any site-specific projects will require further environmental review under NEPA/CEQA; and specific proposals regarding cost allocation, financing, and cost sharing will be appropriate at that time.

IPF 5.5-6

CALFED does not agree with this comment. The advantages and disadvantages of various funding sources are already discussed in the Financing Plan, and the presentation of this information is consistent with "beneficiaries pay." CALFED believes that the level of detail contained in the plan is sufficient for a programmatic document. For more information on the "beneficiaries pay" principle, please refer to common response 9.

IPF 5.5-7

CALFED finance team staff have reviewed page xxiii of the Western Water Policy Review Advisory Commission document published in 1998. The range of options for financing storage and water use efficiency measures, included in the Financing Plan, are consistent with the recommendations in the Western Water Policy Review Advisory Commission document.

IPF 5.5-8

Legislative and voter approval will not be avoided, as the comment suggests. CALFED will seek funding from a variety of sources, including state and federal appropriations and state bonds.

IPF 5.5-9

CALFED agrees that if urban water users can find solutions for their problems that are more cost effective than CALFED, water users would seek their own alternative solutions. The CALFED agencies believe that the

Preferred Program Alternative will be cost effective and to the benefit of all the various stakeholders. The adoption of adaptive management to form decisions during implementation should lead to more cost-effective solutions. It is not up to CALFED, however, to compare the costs and benefits of the CALFED Program with the many possible alternative solutions claimed by urban agencies. CALFED assumes that urban agencies will make these comparisons themselves and decide whether or not to "buy into" CALFED.

Some comments go on to say that while CALFED may raise the price of water to influence water use behaviors, water agencies cannot do this as a matter of law. Some of the actions in the CALFED Program may result in increased prices for water, but this would more closely reflect market prices than artificially increased prices. Second, mitigation costs (i.e., future environmental mitigation costs) are part of water project costs. Third, if laws or regulations require different mitigation or impose additional fees (for example, the CVPIA Restoration Fund), water agencies can legitimately recover these costs. For example, many agencies are already paying fees levied by the CVPIA and are recovering these costs through their rates.

IPF 5.5-10

The CALFED agencies believe that your concern could be addressed by a broad-based user fee. Such a fee would work in a similar fashion to the "pooled funds" category the comment describes, where a funding source is created to fund projects with broad public benefits, as well as broad benefits to water users. This mix of federal, state, and user funding should provide balance and encourage projects that serve multiple benefits.

IPF 5.5-11

CALFED agrees with the comment. CALFED is already working on scenarios to develop an EWA. Federal and state funding, as well as user funding, will be needed to successfully fund implementation of the Program. The Financing Plan supports a balanced funding package with funding from different sources.

IPF 5.5-12

"Ability to pay" as a principle for the Program has not been fully explored. Your comment will be taken into consideration, and CALFED agrees that if this principle is proposed in the future, the proposal should also include the criteria by which it can be applied.

IPF 5.5-13

CALFED agrees that federal and state funding is not a reliable source of funding for the Program. This is why the Financing Plan includes a table showing the advantages and disadvantages of various funding sources to highlight this issue. CALFED proposes that a mix of funding will be needed for successful implementation, including federal, state, and user funding. The Financing Plan also includes information surrounding possible user fees that would provide more funding for the Program.

CALFED contends that while federal and state appropriations are not reliable sources of money, this does not mean that no federal or state money should be sought. That appropriations of public money are unreliable is a fact CALFED does not dispute; this is a problem that cannot be solved by CALFED. The Financing Plan, combined with a Governance Plan, will provide the necessary discussions regarding the assurances of Program funding.

IPF 5.5-14

The conditions your comment mentions seem to be cases where both water users and the environment would benefit. CALFED agrees that a mix of funding is appropriate for implementation of the Program elements that provide both public and user benefits.

IPF 5.5-15

Any local match requirements will depend on the specific projects that are implemented. The cost sharing for specific projects will be determined during implementation of the Program.

IPF 5.5-16

The Financing Plan (Chapter 5 in the Implementation Plan) does include a discussion on various funding sources for the Program, including the availability of Proposition 204 funds after the signing of the ROD. For example, the section on financing the Ecosystem Restoration Program (Section 5.4.8) includes a discussion regarding multiple funding sources for the Ecosystem Restoration Program, including Proposition 204. This section includes the requirements that must be met by the CALFED agencies in order to expend these funds.

IPF 5.5-17

CALFED has already begun the process of coordinating with federal and state agencies regarding programs and projects that contribute to the same goals and objectives of the CALFED Program. To move this process forward, CALFED completed a cross-cut budget for federal FY 2000/ state FY 99-00 that identifies some of these programs and budgets. To successfully implement the Program, CALFED will need to cooperate with all of the federal and state agencies involved in the Delta in order to educate, share information, and coordinate work efforts. This does not necessarily mean, however, that funding from these other programs would be redirected to CALFED.

One commentor worries that the CVPIA Restoration Fund would be used to fund non-CVPIA actions. The CVPIA, as well as many other federal and state programs, has funding to meet specific objectives. While close coordination with CALFED may lead to different levels of funding for some actions, actions that do not fall under the objectives of CVPIA would not be funded with CVPIA Restoration Fund dollars.

Program elements providing broad public benefits will be paid for by beneficiaries. This funding will include federal and state funds, as well as user funding.

IPF 5.5-18

CALFED expects that all Californians, including those living in the southern parts of the state, will benefit from aspects of the CALFED Program. Southern Californians would benefit from increased water supply reliability, water quality improvements, and ecosystem restoration contained in the CALFED Program. A mix of funding will be needed for implementation, including state and federal funding and possibly broad-based user fees.

IPF 5.5-19

CALFED has adopted a "beneficiaries pay" approach to allocating the costs of the Program. Clearly, agricultural water users will benefit from increased water quality and water supply reliability as a result of implementation of the Program. Agricultural and urban water users will be expected to pay, as well as the public. A balanced mix

of funding will be needed for implementation, including contributions from all beneficiary groups. This will require state and federal funding and possibly broad-based user fees.

IPF 5.5-20

CALFED will comply with Proposition 204 requirements for balanced implementation as specified in Section 78684.12 of the California Water Code, which sets conditions on the dispursement of $390 million for ecosystem restoration actions.

5.6 Broad-Based Bay-Delta System User Fee

IPF 5.6-1

The Financing Plan raises the possibility of using a broad-based user fee to help fund implementation of the Program. This does not mean, however, that it will be the only source of funding for implementing the Program, as some comments suggest. CALFED recognizes the need for a mix of funding sources, which might include appropriations of federal and state funds, creation of special funds, imposition of fees to support those funds, and approval of bond acts. Some other comments argue that only public funding should be used for projects with broad public benefits. CALFED agrees that public funding should be used for projects providing broad benefits, but public funding is not the only source of funding that is appropriate. A broad-based fee, in addition to public funding, could also be used to fund a portion of those Program elements with broad public benefits, such as the Ecosystem Restoration Program and portions of the Watershed Management and Water Quality Program elements.

The idea behind a broad-based fee is to provide a reliable source of funding for projects with identifiable, but broad-based, benefits. Some stakeholders have suggested that broad-based user fees are inequitable and not consistent with a "beneficiaries pay" principle unless they are linked to quantified benefits. CALFED does not agree with this statement. The principle that beneficiaries should pay does not require that all benefits be quantified. Some projects have benefits that can be quantified, and these projects lend themselves to traditional means of allocating costs to project beneficiaries. Many other projects in the CALFED Program, however, have benefits that are difficult to quantify, particularly the non-market benefits. In some cases, these projects will be funded with public money. In other cases, benefits can be linked to broad groups of beneficiaries, even if the benefits are difficult to quantify. A broad-based user fee, combined with federal and state funding, is one way to pay for these kinds of projects under a "beneficiaries pay" policy. The CALFED agencies believe that this approach is one that is balanced and consistent with the "beneficiaries pay" principle.

As noted in the Financing Plan, one rationale for a user fee based on diversions is that impacts on the Delta are related to water use, whether the use be upstream of the Delta or by Delta exports. More generally, it is in the interest of all diverters of water from the Delta and its main tributaries to achieve security in the level of long-term water deliveries. Such security can be achieved only if environmental goals of the CALFED Program are met. Broad-based user fees are one way in which water users can contribute to the long-term stability and security of their water supplies.

The Financing Plan outlines different possibilities for how a broad-based fee might be structured. In addition, some projects have benefits that can be quantified; in these cases, cost sharing will be sought from specific beneficiaries during the site-specific planning phase of these projects. Detailed information regarding which users would be expected to pay a user fee will not be included in the Financing Plan but will be determined during implementation of the Program.

IPF 5.6-2

The Financing Plan will discuss broad-based fees in more detail, but the specifics will need to be worked out during implementation of the Program. General responses to these comments are provided, however.

First, broad-based user fees would most likely be used for Program elements with broad public benefits, such as ecosystem restoration or watershed actions. Such fees could also be used for water use efficiency measures that result in additional protected in-stream flows. If broad-based fees are used for conservation, CALFED would not be asking water users to pay for projects where only the state would benefit, as is suggested in your comment. As discussed in the Financing Plan, water conservation actions that are not locally cost effective may be cost effective from a statewide perspective. Broad fees collected from water users to fund these actions would not be inconsistent with "beneficiaries pay," as long as water users as a group collectively benefit from water conservation actions. Water users would not be "paying themselves to make measures cost effective," because water users would not be asked to fund the measures unless they were already cost effective to water users on a broader level.

Some comments also suggest that the government should be subject to the same broad-based fees as water users, for any water taken for the environment or dedicated to the EWA. No decisions have been made regarding this issue, and specifics will be worked out during implementation. CALFED agrees at least in principle that federal and state money are appropriate to help fund water flows from any water transfers, water use efficiency, or storage projects where the flows are protected and dedicated to the environment. The CVPIA formula, for example, involves dedication of water, user fees, and public funds. CALFED agrees that a mix of water user fees and public money will be needed to solve these difficult problems.

IPF 5.6-3

The specific details surrounding crediting will be worked out during implementation, but the Financing Plan already includes a discussion on crediting. The CALFED Program has established the principle that financial contributions would be credited toward the ultimate obligations for the CALFED Program. For example, CVPIA Restoration Fund payments for programs that meet the objectives of the CALFED Program could receive credit toward funding obligations for the Program.

IPF 5.6-4

Some comments suggest that other specific fees should be considered for Program implementation. One comment suggests that commercial and recreational fishermen, for example, should be subject to fees to help fund the Ecosystem Restoration Program. CALFED agrees that all beneficiaries should contribute funding to implementation of the Program; this could include fishermen, boaters, dredgers, and others. The fact that fishermen were mentioned by CALFED as beneficiaries of the Ecosystem Restoration Program means that cost sharing from fishermen will be considered during implementation of the Program. The details surrounding user contributions to the Program will be finalized during implementation of the Program. Please refer to response IPF 5.6-1 for more information on user fees.

IPF 5.6-5

CALFED agrees that the Business Leaders' report specifically states on page vii that the fee would be an option only in the absence of GO bonds. The report also notes, however, that funding through GO bonds is not secure. As Chapter 5 in the Implementation Plan points out, user fees once enacted can be a more stable source of revenues. This is one reason why user fees are being considered by CALFED.

The broad-based user fee that is described in the Financing Plan would not simply assess the fees without linking the fee to benefits on a broad scale. User fees would be assessed to water users, based on the benefits they receive from the Program. It is in the interest of all diverters of water from the Delta and its main tributaries to achieve security in the level of long-term water deliveries. Such security can be achieved only if the environmental goals of the CALFED Program are met. Broad-based user fees are one way in which water users can contribute to the long-term stability and security of their water supplies.

Because it would be difficult to determine how much each individual water user benefits from the Program, it would be appropriate to assess fees on all diverters, based on their collective benefits from the Program. In addition, all Delta diverters would benefit from more reliable supplies of water. It would be impossible to exclude individual users from the future benefits of a more reliable system; therefore, all of them should have to pay. This approach is consistent with what the commentor describes as the appropriate use of user fees for "common property" benefits, as both the comment and the 1996 Business Leaders' Report define them.

It is probably safe to say that most economists define public goods and common property goods in a similar matter and view a gradation of goods from pure public goods (like national defense); to goods where exclusion is relatively difficult (like bird-watching on a flyway); to goods where, with some creativity, groups of users can become identified and charged. In addition, the ability to charge may change over time and because of technological and institutional change (for example, tollways and authorities to monitor fishing and hunting licenses).

Many of the environmental benefits that would be provided by the Ecosystem Restoration Program fall within the range of common property and public goods—goods for which it is difficult to precisely identify beneficiaries, exclude those that enjoy the resource, and charge accordingly. Examples include maintenance of endangered species, general recovery of fish populations, maintenance of bird populations using wetlands along the Pacific flyway, and better wetland habitat. The existence of many of these environmental resources can be enjoyed by individuals in and around the Bay-Delta area; and exclusion is possible only for some activities, such as consumptive recreational fishing and entrance at wildlife areas.

Note: The particular definition of "common property" goods used by the report is a bit confused. The definition indicates that a common property resource is one from which "individuals cannot be excluded" (page 6), but then indicates that costs can be recovered with access fees or user charges. The ability to recover fees for financing would generally depend on the ability to exclude users, or at least to penalize those that do not pay the fees. The examples of common property resources given in the Business Roundtable report are parking, camping, and other recreation fees. Camping and parking fees typically involve the ability to exclude users. Fishing license fees involve an ability to exclude nonpaying users through license enforcement, although perhaps with less reliability and efficiency than fenced parking areas or numbered camping spots.

IPF 5.6-6

CALFED will take this comment into consideration when developing the details surrounding broad-based user fees. The details surrounding such fees will be determined during implementation of the Program.

IPF 5.6-7

The SWP and CVP may lose flexibility because of new laws and regulations, as well as increased demand for water. The loss of flexibility due to new laws and regulations (for example, the ESA) is not necessarily a cost that the public should pay for. Water rights are subject to regulation, and project water rights (CVP and SWP) are junior to many other water rights.

The CVPIA involves dedication of water and water user payments to the Restoration Fund. It also involves cost sharing by the federal government and the state. CALFED agrees with this policy, and similar principles will be part of the CALFED solution. The CALFED agencies believe that a mix of public money and user funding will be needed to solve these difficult problems.

5.7 Program Element Cost Estimates

IPF 5.7-1

CALFED's Financing Plan is not based on equalizing budgets for each program component. Instead, the Financing Plan is designed to find ways to adequately fund the Program in order to meet the goals and objectives of the Program while still meeting the Program solution principles that any solution must be affordable, equitable, implementable, and durable; reduce conflicts in the system; and pose no significant redirected impacts.

The cost estimates for Stage 1 are based on the funds that would be necessary to adequately fund each component of the CALFED Program during the first 7 years of implementation. Some Program elements have more capital costs initially than others. It would be irresponsible and inefficient to commit more funding than necessary to a program element in Stage 1 just because another program element costs more initially.

IPF 5.7-2

CALFED will not be able to accommodate all of the requests of your comment. For example, until it is known which projects will be implemented, it is impossible to determine the O&M costs. Revised cost estimates are included in the Financing Plan. All of the items you mention would be part of the cost estimates of site-specific projects during implementation of the Program.

CALFED has already included a discussion on the relative unreliability of state and federal funds. It is impossible to analyze specifically how much money the federal or state government would have available for CALFED in future years, because state and federal appropriations depend on many factors that cannot be predicted. CALFED has proposed to deal with this problem by seeking a balanced funding package that involves contributions from numerous sources, including federal, state, and user money.

IPF 5.7-3

Estimating costs for the CALFED Program is an ongoing process. The Financing Plan contains updated cost estimates for each of the Program elements over Stage 1. These cost estimates will be developed and refined over time as more information becomes available about projects during Program implementation.

IPF 5.7-4

It is expected that stakeholders would compare the costs and benefits of the Preferred Program Alternative, which would in some cases include their own treatment costs. Regulatory water quality standards are outside the scope of the Program. Local treatment costs to meet standards would occur with or without CALFED. Because these costs are not based on implementation of the CALFED Program, they will not be included in the cost estimates for the Program.